

AGENDA

PLANNING COMMITTEE MEETING



Date: Thursday 25 May 2017
Time: 6.00 pm
Venue: Town Hall, High Street,
Maidstone

Membership:

To be appointed at the Annual
Meeting of Council on 20 May 2017

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 Items withdrawn from the Agenda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 - 1 June 2017
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting

Continued Over/:

Issued on Wednesday 17 May 2017

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**

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 April 2017	1 - 13
11.	Minutes of the Meeting held on 23 May 2017 - to follow	
12.	Appointment of Political Group Spokespersons	
13.	Presentation of Petitions (if any)	
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| 32. | 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, King Street, Maidstone, Kent ME15 6JQ.

Agenda Item 10

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON 27 APRIL 2017

Present: Councillor Perry (Chairman) and Councillors Boughton, Cox, English, Harwood, Hastie, Hemsley, Munford, Powell, Prendergast, Round, Mrs Stockell and Wilby

Also Present: Councillors Brice, M Burton, Cuming, Fort and Springett

364. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillor Clark.

365. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Wilby was substituting for Councillor Clark.

366. NOTIFICATION OF VISITING MEMBERS

Councillor Brice indicated her wish to speak on the report of the Head of Planning and Development relating to application 16/505966 – Railway Tavern, Station Road, Staplehurst.

Councillors Fort and Springett indicated their wish to speak on the report of the Head of Planning and Development relating to the appeal against the Committee's decision to refuse application 15/503288/OUT – Land at Woodcut Farm, Ashford Road, Hollingbourne, Maidstone, Kent. Councillor Springett said that she would also be speaking on behalf of Councillors Cuming, Garten and de Wiggondene.

Councillors M Burton and Cuming attended the meeting as observers.

367. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

368. URGENT ITEMS

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

369. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

370. EXEMPT ITEMS

RESOLVED: That the item on Part II of the agenda (Exempt legal advice relevant to the appeal against the Committee's decision to refuse application 15/503288/OUT – Land at Woodcut Farm, Ashford Road, Hollingbourne, Maidstone, Kent) be considered in public, but the information contained therein should remain private. However, if Members wish to ask questions about or discuss the advice, then the public should be excluded from the meeting.

371. MINUTES OF THE MEETING HELD ON 6 APRIL 2017

RESOLVED: That the Minutes of the meeting held on 6 April 2017 be approved as a correct record and signed.

372. PRESENTATION OF PETITIONS

There were no petitions.

373. DEFERRED ITEMS

14/504109 - ADVERTISEMENT CONSENT FOR THE INSTALLATION OF 2 NO. NON-ILLUMINATED METAL POLE MOUNTED SIGNS (RETROSPECTIVE APPLICATION) - HUNTON C OF E PRIMARY SCHOOL, BISHOPS LANE, HUNTON, KENT

The Development Manager said that this application had been re-assigned to another Case Officer who had confirmed that it would be reported back to the next meeting of the Committee.

16/507491 - DEMOLITION OF EXISTING BUILDING AND ERECTION OF 19 NO. APARTMENTS - 3 TONBRIDGE ROAD, MAIDSTONE, KENT

The Development Manager said that he had nothing further to report in respect of this application at present.

RESOLVED: That the position be noted.

374. APPLICATION 15/503288/OUT - LAND AT WOODCUT FARM, ASHFORD ROAD, HOLLINGBOURNE, MAIDSTONE, KENT

All Members stated that they had been lobbied.

The Committee considered the report of the Head of Planning and Development recommending that the reason for refusal of application 15/503288/OUT should not be defended at appeal and that the Council should adopt a neutral position in response to the appellant's proposed amendments to the application scheme.

In considering the report, the Committee had regard to legal advice provided by Counsel on the prospects of successfully defending the appeal and the risks of an award of costs being made against the Council.

The Committee also considered the urgent update report of the Head of Planning and Development setting out details of (a) representations received from CPRE Kent (on behalf of the Joint Parishes Group, CPRE (Maidstone), the Bearsted and Thurnham Society and Leeds Castle) and from a local resident and (b) lobbying material in the form of a letter sent to Members by the Kent Association of Local Councils.

It was noted that:

- Application 15/503288/OUT was an outline application for a mixed commercial development comprising B1(a), B1(b), B1(c) and B8 units with a maximum floor space of 46,623sqm. All matters were reserved for future consideration except for access, the arrangements for which were detailed in the application.
- The application was reported to the Planning Committee on 30 June 2016 with an Officer recommendation to grant outline planning permission subject to the prior completion of a Section 106 legal agreement and conditions.
- Contrary to the recommendation, the Committee agreed to refuse permission for the following reason:

The proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area and the setting of the Kent Downs Area of Outstanding Natural Beauty and any benefits are not considered to outweigh this harm. It would also cause less than substantial harm to the setting of the Grade II listed building "Woodcut Farm" and any public benefits are not considered to outweigh this harm. The development would therefore be contrary to saved policies ENV21, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan 2000 and advice within the National Planning Policy Framework 2012.

- Members were not given a costs warning before making their decision.
- On 22 December 2016, the applicant submitted an appeal to the Secretary of State against the Committee's decision to refuse outline planning permission. The appeal inquiry was scheduled to commence on 10 October 2017 and was estimated to continue for ten days. The Council was committed to the agreed appeal timetable which required the submission of its statement of case by 4 May 2017 (this being the second agreed extension to the original deadline).
- Practice guidance required the main parties to an appeal to inform the Planning Inspectorate of any material changes in planning circumstances relevant to the determination of the appeal; in particular, any changes in national or local planning policy that were relevant to the Planning Authority's reasons for refusal and whether those reasons

for refusal were still defensible. In accordance with these requirements, before submitting the Council's statement of case, the Officers had reviewed the reason for refusal taking account of any material changes in planning circumstances relevant to the appeal and taken advice from Counsel. There was considered to be no realistic prospect of defending the Council's reason for refusal at appeal and attempting to defend the reason for refusal would be unreasonable and very likely to fail, thereby exposing the Council to a very significant adverse costs award in addition to having to bear its own costs in defending the appeal.

- Following the Committee's decision to refuse outline planning permission, the Council did not remove the site allocation policy from the Local Plan submitted for Examination, and had defended the employment floor space allocation in Policy EMP1 (5) during the Local Plan Examination hearings. In his Interim Findings report on the Examination, the Local Plan Inspector had endorsed the general principle of the employment site allocation in Policy EMP1 (5), finding it necessary to meet identified need for employment development over the Plan period, subject to the modifications recommended in the Interim Findings which safeguarded the majority of the proposed employment floor space for B1(a)/(b) use.
- Subsequently, the Council had accepted the Local Plan Inspector's recommendation that significant changes to the draft Local Plan site allocation policy were necessary to make the submitted Local Plan sound. The Strategic Planning, Sustainability and Transportation Committee had approved a Schedule of Proposed Main Modifications for public consultation over a seven week period ending on 19 May 2017 to give effect to the Inspector's recommendations in his Interim Findings. The Schedule included alterations to draft Policy EMP1 (5), to be renumbered EMP1 (4), the principal change being that the site allocation was now required to provide a minimum of 10,000sqm of B1(a)/(b) floor space to be safeguarded from alternative uses until at least April 2026, of which 5,000sqm would be in the form of serviced land.
- As an application for outline planning permission, consideration of matters relating to layout, scale, appearance and landscaping were, and continued to be, reserved for future consideration. Accordingly, the main issues for consideration by the Committee were the principle of the development proposed and the acceptability of the detailed proposals for access to the site. It was reasonable to conclude that when determining the application, the Committee did not consider matters reserved for later consideration, and, on that basis, the Committee's reason for refusing to grant outline planning permission must be construed as an "in principle objection" to the proposed development. Such a decision was fundamentally contrary to draft Policy EMP1 (5) either as submitted or as proposed to be modified.
- However, when determining the application, the Planning Committee did not identify any basis upon which the proposal failed to accord with

the criteria within draft Policy EMP1 (5) in the reason for refusal, but, instead, decided to attach limited weight to the emerging allocation policy, and significant weight to the saved policies of the adopted Local Plan (2000) in reaching its decision.

- Upon adoption of the Local Plan, the saved policies cited in the Council's reason for refusal would no longer form part of the Development Plan.
- The appellant had yet to respond formally to the Local Plan Modifications Consultation. However, to inform the preparation of the Officers' full statement of case, at the Officers' request, the appellant had provided details of proposed amendments to the application scheme intended to address the modified requirements of draft Policy EMP1 (5). It would be for the Planning Inspector to consider, amongst other things, whether the development would be so changed that to grant permission would be to deprive those who should have been consulted of the opportunity of consultation.
- At this stage, the Officers did not consider it necessary or appropriate to support the appellant's proposed amendments to the application proposals. The appellant's proposed amendments, considered as a whole, constituted a substantial alteration to the proposals considered by the Planning Committee in June 2016, and the appellant should be encouraged to submit a new application for outline planning permission for the amended proposals before formally applying to amend the application proposal. This would ensure that interested persons were given an opportunity to comment on the proposals and participate in the decision making process.
- The circumstances of the case were unusual and there were other issues that the Planning Inspector should take into account when considering whether to determine the appeal by reference to the amended proposal, including the history of the planning application and appeal, the public interest in delivering development on the site that accorded with the key priorities of the emerging Development Plan as modified, and the futility of determining the appeal on the basis of a scheme that neither the appellant nor the Council supported. It was recommended that the Council should adopt a neutral position in response to the appellant's proposed amendments to the application scheme.
- In addition, it was recommended that, in the event of the appellant pursuing the appeal on the basis of the application scheme or the Planning Inspector refusing to accept the amendments, it would be reasonable for the Council to defend the appeal on the basis that the application proposals did not accord with emerging Local Plan policy, in particular, Policy EMP1 (5) as proposed to be modified.
- The Committee was also being asked to give delegated powers to the Head of Planning and Development to negotiate the terms of any Section 106 agreement to ensure that the development was acceptable in planning terms if the Inspector allowed the appeal.

The Development Manager reiterated that it was the advice of the Officers and of Counsel that the Council's reason for refusal could not be sustained at appeal and to attempt to defend the reason would have significant cost implications for the Council's budget. The Director of Finance and Business Improvement had confirmed that significant cost implications for the Council's budget currently stood at £30,000. The bespoke inquiry into the appeal was scheduled to run for ten days and it was estimated, based on previous experience, that if a costs award were to be made against the Council, costs, including the Council's costs in defending the reason for refusal, could be in the region of approximately £350k to £450k.

Councillor Bennett of Hollingbourne Parish Council and Councillors Fort and Springett (speaking also on behalf of Councillors Cuming, Garten and de Wiggonde) addressed the meeting.

During the ensuing discussion, Members spoke both for and against defending the Committee's reason for refusal at appeal, raising the following summarised points:

- The Council should delay a decision on whether or not to defend the reason for refusal at appeal until after the public consultation on the Schedule of Proposed Main Modifications to the submitted Local Plan and the Local Plan Inspector had issued his final report.
- When the Committee agreed to refuse permission, two reasons were cited; namely that the proposed development would be harmful to the character and appearance of the countryside, Special Landscape Area, and the setting of the Kent Downs Area of Outstanding Natural Beauty and that it would also cause less than substantial harm to the Grade II listed building "Woodcut Farm". The Committee had not been told that these reasons would not be sustainable at appeal and Members were not given a costs warning before making their decision.
- Nothing had changed since the decision was made.
- The Local Plan Inspector had asked the Council to carry out an assessment of employment needs and commuting patterns across the wider area. This seemed to imply that the Local Plan Inspector might conclude that the Borough's employment needs could be met by reaching agreement with neighbouring authorities.
- The issue of how people would travel to and from the site as an employment hub should be addressed, including the need for a Leeds Langley by-pass.
- It was too late now to change the Committee's reason for refusal. The reason for refusing permission was an "in principle" objection to the proposed development and did not explain how the proposals would cause harm to the character and appearance of the countryside, the Special Landscape Area and the setting of the AONB, or the extent of that harm. The reason for refusal did not explain how the proposal caused less than substantial harm to the setting and the significance of

the Grade II listed "Woodcut Farm". It would be necessary to think very carefully about how to defend the appeal on these grounds notwithstanding public opinion. In defending the Waterside Park decision, the Council was able to evidence the harm.

- There seemed to be some confusion on the part of the public as to the role of the Planning Committee. The Committee was a Regulatory Committee responsible for determining planning applications having regard to and interpreting national and local planning policy and guidance. It could negotiate improvements to the quality of development, but it could not refuse an application which was compliant with emerging Local Plan policy with no details of matters which it could have input into.
- The Council should defend the reason for refusal recorded in the decision notice having regard to the sensitivity of the site and the views expressed by local residents.
- The Council should defend the reason for refusal recorded in the decision notice as the proposed development would have a huge impact on the character and appearance of the countryside in this location, the Special Landscape Area and on views to and from the AONB. The public expected the Council to defend the appeal. Any development at this location should be sensitive and of the right quality.
- Members should have regard to all of the issues, not just the risk of incurring costs in defending the appeal.
- The Council should defend the reason for refusal. Members had received legal advice as to the prospects of successfully defending the appeal and the risks of an award of costs being made against the Council, but could, having assessed the situation, come to a different conclusion.
- The situation was that the reason for refusal was poorly worded and could not be changed. An objection was being raised to an allocation which had been endorsed by the Council. The Committee had attached limited weight to emerging Local Plan policies and significant weight to the saved policies of the adopted Local Plan (2000). However, upon adoption of the Local Plan, the saved policies cited in the reason for refusal would no longer form part of the Development Plan. To continue to defend the appeal could expose the Council to a significant adverse costs award. The Council had a responsibility to the residents directly affected and to other residents due to the impact on the public purse. It was necessary to consider whether the reason for refusal could be sustained at appeal and to balance that against the risk of incurring costs which would impact on the public purse.

In response to questions/comments by Members, the Head of Planning and Development and the Principal Planning Officer explained that:

- The Council had approved the Maidstone Borough Local Plan for submission to the Secretary of State for examination and the Officers had defended it during the Local Plan Examination hearings. In the Local Plan submitted for examination, the Council said that there was a need to make provision for some 32,000sqm of B class employment floor space in the Borough and the Woodcut Farm site was the main strategic location, the other sites were much smaller. The Council was not aware of better locations of this size elsewhere in the Borough.
- The purpose of the Local Plan Inspector's Interim Findings report was to identify changes required to make the Plan sound. In his Interim Findings, the Local Plan Inspector had not recommended the deletion of this site allocation.
- The Local Plan Inspector had found however that unless alternative provision was identified, there was likely to be a shortfall in the delivery of office floor space against the identified requirement over the Plan period. The Schedule of Proposed Main Modifications to the submitted Local Plan now included a requirement for the Woodcut Farm site allocation to provide a minimum of 10,000sqm of B1(a)/(b) floor space to be safeguarded from alternative uses until at least April 2026, of which 5,000sqm would be in the form of serviced land.
- During the Local Plan Examination the Council was asked by the Local Plan Inspector to carry out further work to establish whether there would be sufficient land in Maidstone and neighbouring Boroughs to accommodate future employment needs overall and what effect there might be on commuting patterns. Having considered the assessment and the comments made by other parties, the Inspector did not ask for further work to be undertaken to assess whether the Borough's employment needs could be met by reaching agreement with neighbouring authorities.
- Circumstances had changed since the Committee's decision to refuse the application; the Council had not removed the site allocation policy from the Local Plan and had defended the employment floor space allocation in Policy EMP1 (5) during the Local Plan Examination hearings. It was considered that the Local Plan Inspector had endorsed the general principle of the Woodcut Farm employment allocation, finding it necessary to meet the identified need for employment development over the Plan period subject to the proposed modifications. The Local Plan Inspector had not requested that a proposed Main Modification to delete the Woodcut Farm allocation be included in the current Main Modifications consultation.
- The Council could not delay a decision on whether or not to defend the reason for refusal at appeal until after the public consultation on the Schedule of Proposed Main Modifications to the submitted Local Plan and the Local Plan Inspector had issued his final report as the Council was committed to the agreed appeal timetable which required the submission of its Statement of Case by 4 May 2017 to outline its position in relation to the appeal.

The Committee took the recommendations set out in the report separately as follows:

Recommendation 1 – To agree that the sole reason for refusal recorded in the Council’s decision notice should not be defended on appeal.

In accordance with Council Procedure Rule 21.4, three Members of the Committee requested that a named vote be taken on this recommendation.

Members voted against the recommendation. The voting was as follows:

FOR (5)	AGAINST (8)
Councillor Cox	Councillor Boughton
Councillor English	Councillor Hastie
Councillor Harwood	Councillor Hemsley
Councillor Munford	Councillor Perry
Councillor Wilby	Councillor Powell
	Councillor Prendergast
	Councillor Round
	Councillor Mrs Stockell

Councillor Harwood requested that his dissent be recorded.

Immediately after the vote was taken, the Head of Planning and Development, upon the advice of the representative of the Head of Legal Partnership, referred the application to the Planning Referrals Committee pursuant to paragraph 29.3 of Part 3.1 of the Council’s Constitution and paragraph 17 of the Local Code of Conduct for Councillors and Officers Dealing with Planning Matters.

Recommendation 2 – To agree that the Council should adopt a neutral position in response to the appellant’s proposed amendments to the appeal proposals.

In accordance with Council Procedure Rule 21.4, three Members of the Committee requested that a named vote be taken on this recommendation.

Members voted against the recommendation. The voting was as follows:

FOR (5)	AGAINST (8)
Councillor Cox	Councillor Boughton
Councillor English	Councillor Hastie
Councillor Harwood	Councillor Hemsley
Councillor Munford	Councillor Perry
Councillor Wilby	Councillor Powell
	Councillor Prendergast
	Councillor Round
	Councillor Mrs Stockell

Recommendation 3 – In the event that the appellant does not apply to amend the proposals, or if the Inspector does not accept the amendments, to defend the appeal, if necessary, on the basis that the application proposal does not accord with emerging Local Plan policy, in particular, Policy EMP1 (5) as proposed to be modified.

The Committee was informed that this recommendation no longer applied as Members had voted against not defending the sole reason for refusal recorded in the Council's decision notice. The recommendation would, however, be included in the report to the Planning Referrals Committee.

Recommendation 4 - To agree that Members delegate authority to the Head of Planning and Development to negotiate the contents of any Section 106 Agreement.

RESOLVED: That the Head of Planning and Development be given delegated powers to negotiate the terms of any Section 106 agreement if the Planning Inspector allows the appeal.

Voting: 13 – For 0 – Against 0 – Abstentions

Note: During the discussion on this item, Councillor English asked that his dissent to the use of named votes at Planning Committee be recorded.

375. 16/504892 - DEMOLITION OF EXISTING PROPERTY OF HEADCORN HALL AND ASSOCIATED OUTBUILDINGS. ERECTION OF 10 FOUR BEDROOM HOUSES AND 4 FIVE BEDROOM HOUSES TOTAL 14 HOUSES. CREATION OF NEW VEHICULAR ACCESS VIA SHENLEY ROAD. PROVISION OF ACCESS ROAD, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE; EXISTING ACCESS VIA BIDDENEN ROAD TO BE CLOSED - HEADCORN HALL, BIDDENDEN ROAD, HEADCORN, KENT

Councillors English, Round and Prendergast stated that they had been lobbied.

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

RESOLVED: That subject to the prior completion of a S106 legal agreement in such terms as the Interim Head of Legal Partnership may advise to secure an affordable housing viability review mechanism, the Head of Planning and Development be given delegated powers to grant permission subject to the conditions and informatives set out in the report, as amended by the urgent update report, and the additional condition set out in the urgent update report.

Voting: 13 – For 0 – Against 0 – Abstentions

376. 16/505966 - CHANGE OF USE AND CONVERSION OF THE RAILWAY TAVERN TO ONE DWELLING AND THE ERECTION OF A NEW DETACHED DWELLING WITH PARKING AND LANDSCAPING - RAILWAY TAVERN, STATION ROAD, STAPLEHURST, KENT

All Members except Councillor Hemsley stated that they had been lobbied.

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

The Development Manager advised the Committee that earlier that day, he had been notified that the Parish Council had submitted an application for the public house to be registered as an asset of community value. The representative of the Interim Head of Legal Partnership explained that the effect of a building being listed as an asset of community value was that if the property was subsequently to be sold, then it had to be offered to the community before being placed on the open market. If a listing had been made, and it had not, it would only affect the disposal of the property and it would be an additional material consideration to be taken into account as part of the planning process.

Mr Lenham, an objector, Councillor Mrs Buller of Staplehurst Parish Council, Mr Barraclough, for the applicant, and Councillor Brice (Visiting Member) addressed the meeting.

Contrary to the recommendation of the Head of Planning and Development, the Committee agreed to refuse permission. In making this decision, Members considered that insufficient evidence had been submitted which demonstrated that the operation as a public house was not viable and it was unlikely to become commercially viable, contrary to saved policy R11 of the Maidstone Borough-Wide Local Plan 2000. The proposals would also result in the loss of a community facility contrary to saved policy R11 of the Maidstone Borough-Wide Local Plan 2000, policy SP10 (paragraph 5) and policy SP5 (paragraph 3) of the emerging Maidstone Local Plan and paragraph 70 of the National Planning Policy Framework. The benefits arising from the long-term use of the building were not considered to outweigh the loss of the community asset.

In addition, Members considered that the proposals would fail to meet Objective 12 of the adopted Staplehurst Neighbourhood Plan which sought to support a strong local economy with good access to jobs and employment opportunities.

RESOLVED: That permission be refused for the following reasons:

1. Insufficient evidence has been submitted which demonstrates that the operation as a public house is not viable and it is unlikely to become commercially viable, contrary to saved policy R11 of the Maidstone Borough-Wide Local Plan 2000. The proposals would also result in the loss of a community facility contrary to saved policy R11 of the Maidstone Borough-Wide Local Plan 2000, policy SP10 (paragraph 5) and policy SP5 (paragraph 3) of the emerging Maidstone Local Plan and paragraph 70 of the National Planning Policy Framework. The benefits arising from the long-term use of the building are not considered to outweigh the loss of the community asset.
2. The proposals would fail to meet Objective 12 of the adopted Staplehurst Neighbourhood Plan which seeks to support a strong local economy with good access to jobs and employment opportunities.

Voting: 13 – For 0 – Against 0 – Abstentions

FURTHER RESOLVED: That in the event of the application being taken to appeal, the Officers, when defending the decision, should put forward appropriate conditions, including a suitable condition regarding the use of renewable energies.

Voting: 13 – For 0 – Against 0 – Abstentions

377. 16/508545 - MOVING MOBILE HOME AND ERECTION OF NEW DAY BUILDING - 4 QUARTER PADDOCKS, BLETCHENDEN ROAD, HEADCORN, KENT

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

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

Voting: 8 – For 0 – Against 5 – Abstentions

378. APPEAL DECISIONS

The Committee considered the report of the Head of Planning and Development setting out details of appeal decisions received since the last meeting. It was pointed out that the decision to refuse application 13/1456 for a solar farm and associated works at Great Pagehurst Farm had been made by the Planning Committee and not by the Officers acting under delegated powers.

In response to questions:

The Development Manager confirmed that he was awaiting a response to his letter to the Quality Assurance Unit at the Planning Inspectorate regarding inconsistencies in appeal decisions.

The Vice-Chairman confirmed that clarification regarding the role of Members, particularly Planning Committee Members, at appeals was being addressed as part of the review being undertaken of the provisions of the Council's Constitution relating to the Planning Committee.

RESOLVED: That the report be noted, and that the Officers be congratulated on their work on the appeals.

379. CHAIRMAN'S ANNOUNCEMENTS

The Chairman said that, since this was the last meeting of the Municipal Year, he would like to thank Members, the Vice-Chairman in particular, and Officers for their work and support.

380. DURATION OF MEETING

6.00 p.m. to 9.10 p.m.

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

25 MAY 2017

REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT

DEFERRED ITEM

The following application stands deferred from a previous meeting of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

APPLICATION	DATE DEFERRED
<p><u>16/507491 - DEMOLITION OF EXISTING BUILDING AND ERECTION OF 19 NO. APARTMENTS - 3 TONBRIDGE ROAD, MAIDSTONE, KENT</u></p> <p>Deferred to:</p> <p>(a) Obtain an Air Quality Assessment; and</p> <p>(b) Reconsider the design and layout in the light of the Air Quality Assessment; this to be landscaped, including trees and planting on the Tonbridge Road frontage, and the treatment of the elevations to be reconsidered to improve amenity for future occupants.</p>	<p>16 March 2017</p>

REPORT SUMMARY

REFERENCE NO - 13/1823		
APPLICATION PROPOSAL		
An outline planning application for the demolition of existing buildings and the erection of 49 dwellings and associated car parking and landscaping, with the matter of access to be considered at the current time and all other matters reserved.		
ADDRESS Mayfield Nursery, Ashford Road, Harrietsham, Maidstone, Kent, ME17 1BN		
RECOMMENDATION Amend S106 contributions as set out in report		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL		
The proposed development does not conform with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. However, the development is at a sustainable location; immediately adjoins an existing settlement; is identified under policy H1 (27) in the emerging Local Plan as a housing allocation and complies with the criteria set out in the relevant policy; and would not result in significant planning harm. In this context, and given the current shortfall in the required five year housing land supply, the low adverse impacts of the proposal are considered to be outweighed by the benefits of the scheme. As such the development is considered to be in compliance with the National Planning Policy Framework, and this represents sufficient grounds for a departure from the Local Plan.		
REASON FOR REFERRAL TO COMMITTEE		
To seek the agreement of Members of the Planning Committee to amend the S106 contributions being sought in relation to Harrietsham Primary School.		
WARD Harrietsham And Lenham Ward	PARISH/TOWN Harrietsham	COUNCIL
		APPLICANT Mr Habil Kapasi AGENT Robinson Escott Planning
DECISION DUE DATE 30/01/14	PUBLICITY EXPIRY DATE 30/01/14	OFFICER SITE VISIT DATE Various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
MA/98/0955 - Erection of garden centre building; erection of replacement farm shop; re-siting of polytunnel and retention of existing farm shop as a potting shed (resubmission following refusal of MA/98/0111) - APPROVED WITH CONDITIONS		
MA/98/0111 - Erection of garden centre building; erection of replacement farm shop; re-siting of polytunnel and retention of existing farm shop for use as a potting shed - REFUSED		
MA/97/0892 - Variation of condition 07 of MA/93/1519 to read ' no goods shall be sold from the site other than those directly associated with agriculture and horticulture items for gardens and gardening and products for the feeding and care of domestic animals except as otherwise agreed beforehand in writing' - APPROVED WITH CONDITIONS		
MA/93/1519 - Erection of building and use of land as a garden centre - APPROVED WITH CONDITIONS		
MA/86/1848 - Erection of shed to be used as farm shop for the sale and storage of imported produce and produce grown on site with no more than 50% of the floorspace used for the sale and storage of plant, shrubs and small miscellaneous items - APPROVED WITH CONDITIONS		
MA/85/1747 - Change of use from nursery to garden centre – REFUSED		
MA/84/0741 - Change of use from nursery to garden centre – WITHDRAWN		
MA/83/0896 - Widening and improvement to access driveway - APPROVED WITH		

CONDITIONS

MA/81/0842 - Extension to nursery and garden centre, retail farm produce - REFUSED

MA/81/0380 - New access to existing property - REFUSED

MA/80/0532 - Bedroom and porch extensions plus internal alterations – APPROVED

MAIN REPORT

1.0 BACKGROUND

- 1.01 The application seeks outline planning permission for the demolition of existing buildings and the erection of 49 dwellings and associated car parking and landscaping, with the matter of access to be considered at the current time and all other matters reserved on a site adjoining the southern eastern boundary of the rural service centre of Harrietsham.
- 1.02 The application was reported to the Planning Committee meeting held on 15th January 2015. Members resolved to give the Head of Planning and Development delegated powers to grant planning permission subject to conditions and the prior completion of a S106 legal agreement.
- 1.03 The application was represented to committee on the 25th May 2015 following the introduction of S123 of the CIL Regulations that came into force on 6th April 2015. The S123 of the CIL Regulations resulted in a number of changes to the previously agreed Heads of Terms. Members again resolved to give the Head of Planning and Development delegated powers to grant planning permission subject to conditions and the prior completion of a S106 legal agreement to secure the following:
- *The provision of 40% affordable residential units within the application site; and*
 - *A contribution of £2,360.96 per applicable house and £590.24 per applicable flat towards the first phase of the 1FE expansion of Harrietsham Primary School; and*
 - *A contribution of £413.56 to be used to address the demand from the development towards youth services (supplied to youth workers and organisations serving Harrietsham); and*
 - *A contribution of £2,352.78 to be used to address the demand from the development towards additional book stock supplied to the mobile library service serving the development) and*
 - *A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) towards the improvement of healthcare facilities at The Glebe Medical Centre, Harrietsham being the provision of two additional clinical rooms; and*
 - *A contribution of £3,500 per dwelling towards highway improvements to the A20 in Harrietsham.*
- 1.03 The two previous committee reports are attached as **Appendix A** to this report.

2.0 REASON FOR REFERRAL BACK TO PLANNING COMMITTEE

- 2.1 Since the committee resolved to grant permission in May 2015 the S106 has not yet been signed and further representation has been received from KCC Economic Development. KCC have recently completed the first part of a major review of School build costs and have readjusted their contribution requests for primary schools to factor in an increase in construction costs and this needs to be reflected in

the contributions sought on this site to ensure the purpose of the contribution is fulfilled.

2.2 The primary school contribution for this site has increased from £92,077 to £129,636. The contribution is now sought towards the phase 2 expansion of Harrietsham Primary School.

2.3 In addition, KCC are no longer seeking contributions of £413.56 towards youth services.

2.02 The NHS and KCC Highways have both been re-consulted and confirm that the original contribution requests are still applicable.

2.04 KCC and the NHS both confirm that these requests satisfy the tests in relation to pooling set out in the CIL Regulations. I am satisfied that the contributions are justified and necessary to mitigate the development in accordance with the 123 CIL Regulations.

3.0 MATERIAL CHANGES SINCE THE APPLICATION WAS LAST PRESENTED TO COMMITTEE

- Government removes Code for Sustainable Homes from the planning system.
- New Local Plan submitted for examination on 20 May 2016.
- Policy H1 (34) in the new Local Plan allocates the application site for approximately 49 houses.
- Council publish the Housing Topic Paper in May 2016 and Update in 1 September 2016.
- Local Plan Inspectors produces his interim finding on 22 December 2016.
- The Local Plan inspector does not make any recommendations to delete or change policy H1 (34) - Mayfield Nursery.
- The Council publish updated housing figures to reflect the Inspector's Interim Findings and can demonstrate 6.11 year housing supply as at 1 April 2016
- The Schedule of Main Modifications to new Local Plan submitted for consultation in March 2017. There are no suggested modifications to policy H1 (34).

3.1 The applications site remains in the new local plan under housing policy H1 (34). The local plan Inspector has not raised any objections or recommended any changes to policy H1 (34). The new local plan allocates housing sites including this site (considered to be in the most appropriate locations for the Borough to meet the OAN figure) and allows the Council to demonstrate a 5 year supply of deliverable housing sites. The progression of the new Local Plan strengthens this site as a housing allocation site.

3.2 Condition 10 – Code for Sustainable Homes is no longer relevant. This condition will be replaced by a condition that requires the development to provided renewable energies within the site. This new condition is below at condition 10.

3.2 Overall it is considered that there have been no material changes that alter the original committee resolution to approve this application.

4.0 RECOMMENDATION

- 4.1 The Heads of Terms as set out below have been amended in accordance with the changes to the requests, including specific reference to the destination of the contributions.

SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT, IN SUCH TERMS AS THE HEAD OF THE LEGAL PARTNERSHIP ADVISES, TO PROVIDE THE FOLLOWING:

- The provision of 40% affordable residential units within the application site; and
- A contribution of 129,636 towards the Phase 2 expansion of Harrietsham Primary School.
- A contribution of £2,352.78 to be used to address the demand from the development towards additional book stock supplied to the mobile library service serving the development) and
- A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) towards the improvement of healthcare facilities at The Glebe Medical Centre, Harrietsham being the provision of two additional clinical rooms; and
- A contribution of £3,500 per dwelling towards highway improvements to the A20 in Harrietsham.

First resolution

THE HEAD OF PLANNING AND DEVELOPMENT BE GIVEN DELEGATED POWERS TO GRANT OUTLINE PLANNING PERMISSION SUBJECT TO THE IMPOSITION OF THE CONDITIONS SET OUT BELOW:

Second resolution

Given the significant delays dealing with the S106 an alternative resolution is requested to refuse the application if the S106 is not signed in timely manner.

THE HEAD OF PLANNING AND DEVELOPMENT BE GIVEN DELEGATED POWERS TO REFUSE OUTLINE PLANNING PERMISSION SHOULD THE S016 NOT BE SIGNED AND SEADLED WITHIN 6 WEEKS OF THE COMMITTEE MEETING.

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

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

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

Reason: no such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990, and in order to encourage the commencement of development and boost the provision of new market and affordable housing supply in accordance with paragraph 47 of the National Planning Policy Framework 2012 and paragraph 027 of the National Planning Policy Guidance 2014.

- (2) The details of reserved matters of layout and appearance submitted pursuant to condition 1 above shall include inter-alia;
- (i) A landscape and topography led layout with a softer more informal dispersed pattern of development that applies a 'looser' pattern of built form and less hard surfacing than shown on the indicative layout which creates an active frontage onto the A20;
 - (ii) The provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting);
 - (iii) A full landscape and visual impact appraisal of the development including views from public rights of way in the North Downs Area of Outstanding Natural Beauty;
 - (iv) Full details of rooflines and roofscapes, streetscenes within the site and to the site frontage with the A20, and north-south sections across the site; and
 - (v) The incorporation of decentralised and renewable or low-carbon sources of energy.

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

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

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

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

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

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

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

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

- (6) The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management.

The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and Maidstone Landscape Character Assessment Supplement 2012 (Harrietsham to Lenham Vale landscape type), and shall include, inter alia, the retention of all trees and hedges identified as such in the Sylvan Arb Arboricultural Report (Tree Survey and Tree Constraints Plan) ref SA/771/13 received 24th October 2013; the retention and repair of hedgerows and tree lines within the site; the provision of wild flower meadow areas; and provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting).

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

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

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

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

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

- (8) The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

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

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

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

- (10) The development hereby approved shall not commence until details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, will be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To ensure an energy efficient form of development. Details are required prior to development commencing to ensure the methods are integral to the design and to ensure that all options (including ground source heat pumps) are available.

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

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

- (12) Notwithstanding the details and recommendations set out in JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014, the development shall not commence until a long term management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall incorporate the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on the site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.
- i) Specific details and locations of the biodiversity enhancement measures outlined JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received

24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014 and the inclusion of enhancement measures to be incorporated into the fabric of buildings.

j) Details of the management of open space areas to provide biodiversity enhancement.

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

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

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

Reason: in the interests of residential amenity.

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

Reason: in the interests of residential amenity.

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

The drainage details submitted to the Local Planning Authority shall:

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

Specify a timetable for implementation; and

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

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

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

- (16) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

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

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

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

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

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

Reason: to prevent pollution to the environment.

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

Reason: to prevent pollution of the environment.

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

Reason: to prevent pollution of the environment.

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

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

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

Reason: to prevent pollution to the environment.

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

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

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

Reason: in the interests of road safety.

- (23) The details of landscape, ecological mitigation and sustainable surface water drainage required by conditions 1, 6, 12 and 15 above shall include, inter alia, an ecological receptor site and a sustainable urban drainage system in the south of the site adjacent to the site boundary.

Reason: in the interest of pollution and flood prevention, and safeguarding biodiversity assets.

INFORMATIVES

As per the previous recommendation.

Case Officer: Andrew Jolly

- 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.

REPORT SUMMARY

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

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

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

MAIN REPORT

1.0 DESCRIPTION OF SITE

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

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

2.0 PROPOSAL

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

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

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

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

3.0 POLICY AND OTHER CONSIDERATIONS

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

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

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

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

4.0 LOCAL REPRESENTATIONS

4.01 A site notice was displayed at the site on 28th November 2013.

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

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

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

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

5.0 CONSULTATIONS

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

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

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

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

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

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

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

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

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

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

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

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

6.0 BACKGROUND PAPERS AND PLANS

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

7.0 APPRAISAL

Principle of Development

- 7.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000, and as such the starting point for consideration of the proposal is policy ENV28 which relates to development within the open countryside. The policy states that:

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

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

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

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

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

7.04 Paragraph 47 of the NPPF states that Councils should;

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

7.05 Relevant to this, the NPPF requires that local authorities have a clear understanding of housing needs in their area, and as such they should prepare a Strategic Housing Market Assessment (SHMA) to assess their full needs; working with neighbouring authorities where housing market areas cross administrative boundaries. Maidstone has carried this out with Ashford Borough Council and Tonbridge and Malling Borough Council. The SHMA (2014) confirms the objectively assessed housing need for the borough over the plan period 2011 to 2031 as 19,600 dwellings (980 dwellings per annum). Subsequent to this, the objectively assessed housing need was revised downwards to 18,600. This figure, which is based on central government population projections based on 2011 census data, was reported to, and accepted by, Cabinet on 10th September 2014.

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

7.07 This lack of a five year supply is a significant factor and at paragraph 49 of the NPPF it is stated that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a five year supply cannot be demonstrated. This position has been reflected in recent appeal decisions issued since the publication of the NPPF. In this policy context, the presumption in favour of sustainable development identified in paragraph 14 of the NPPF means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.

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

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

- 7.09 RSC's are considered the most sustainable settlements in Maidstone's settlement hierarchy, as set out in the draft Local Plan, outside of the town centre and urban area by virtue of their accessibility, potential for growth and role as a service centre of surrounding areas. The draft Local Plan states that, "Rural service centres play a key part in the economic and social fabric of the borough and contribute towards its character and built form. They act as a focal point for trade and services by providing a concentration of public transport networks, employment opportunities and community facilities that minimise car journeys."
- 7.10 In this context, it is considered that the location of the site is sustainable in the terms of the NPPF and draft Local Plan.
- 7.11 Furthermore, the application site is a housing allocation within the emerging Local Plan for 50 dwellings under the scope of policy H1(27), subject to the following detailed criteria:
- *The woodland areas along the southern boundary of the site will be retained, in order to screen new housing from the railway line.*
 - *The line of trees along the eastern and western boundaries of the site will be retained and enhanced, in order to provide a suitable buffer between the existing housing to the west and the adjacent open countryside to the east.*
 - *Access will be taken from the A20 Ashford Road only.*
 - *Development will be subject to the results and recommendations of a phase one ecological survey.*
 - *Provision of publicly accessible open space as proven necessary, and/or contributions.*
 - *Appropriate contributions towards community infrastructure will be provided, where proven necessary.*
 - *Development will be subject to a noise survey to determine any necessary attenuation measures in relation to the railway line.*
 - *Appropriate contributions towards a highways improvement scheme for the section of the A20 Ashford Road that passes through Harrietsham.*
 - *Appropriate contributions towards the provision of a safe pedestrian and cycle crossing point on the A20 Ashford Road, to be agreed with the Highways Authority.*
 - *Improvements to and provision of pedestrian and cycle links to the village centre.*
 - *Approximate development density of 30 dwellings per hectare.*
- 7.12 The Council is not in a position to demonstrate a five year housing land supply, and as such normal restraints on volume residential development in the open countryside do not currently apply as the adopted Local Plan is considered out of date. In such

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

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

Visual Impact

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

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

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

Cumulative impact

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

Affordable Housing and S106 Contributions

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

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

- 7.30 In this case, the applicant proposes 40% affordable housing built to lifetime Homes standards, which is in accordance with the current Maidstone Borough Council Affordable Housing DPD. The proposed distribution of affordable housing within the site (plots 32 – 49 inclusive) and the mix of housing stock and tenure (60% social rented and 40% shared ownership), being a mix of 7 x 1-bed units, 6 x 2-bed units, 5 x 3-bed units and 2 x 4-bed units have been arrived at in consultation with the Council's Housing Officer who has raised no objection to the details proposed. Therefore, subject to a S106 agreement safeguarding this provision, this element of the proposal is considered to be acceptable.
- 7.31 In terms of financial contributions towards social infrastructure other than affordable housing, any request for contributions needs to be scrutinised, in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. This has strict criteria that set out that any obligation must meet the following requirements: -
- It is:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 7.32 In this case, the following contributions have been sought in respect of the proposed development, which will be considered in detail below:
- **£2,360.96 per 'applicable' house and £590.24 per 'applicable' flat** is sought towards the expansion of Harrietsham Primary School.
 - **£122.01 per dwelling** is sought to be used to address the demand from the development towards additional bookstock and services at local libraries serving the development.
 - **£30.70 per dwelling** is sought to be used to address the demand from the development towards the provision of new/expanded facilities and services both through detailed adult education centres and through outreach community learning facilities local to the development.
 - **£8.44 per dwelling** is sought to be used to address the demand from the development towards youth services locally.
 - **£15.95 per dwelling** is sought to be used to address the demand from the development towards the provision of new/expanded facilities and services both on site and local to the development including assistive technology, and enhancement of local community facilities to ensure full DDA access.
 - **£23,587** (£360 per person, per market housing unit calculated in accordance with NHS formulae of occupancy) is sought towards the improvement of primary care medical facilities local to the development.
 - **A sum in the region of £3,500 per unit** (delegated powers to be sought to finalise the exact sum under the scope of the legal agreement) is sought towards the improvement of the A20 and associated public realm improvements.
- 7.33 Kent County Council has requested a contribution of £2,360.96 per 'applicable' house and £590.24 per 'applicable' flat towards extension of Harrietsham Primary School. Evidence has been submitted that demand for places at this school will, as a

result of the cumulative impact of developments in the vicinity of the village, exceed capacity. The contributions set out above would go towards meeting the additional strain placed upon the school facilities within the locality, and is considered to be a reasonable sum, related to the scale of the development. I am therefore satisfied that this contribution meets the tests as set out above.

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

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

Density

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

Residential Amenity

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

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

Highways

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

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

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

Landscaping

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

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

Biodiversity

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

Flood risk, drainage and contaminated land

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

Other Matters

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

8.0 CONCLUSION

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

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

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

9.0 RECOMMENDATION

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

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

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

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

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

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

A contribution of £15.95 per dwelling to address the demand from the development for adult social services to be used towards the provision of new/expanded facilities and services both on site and local to the development, including assistive technology and enhancement of local community facilities to ensure full DDA access; and

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

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

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

CONDITIONS to include:

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

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

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

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

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990, and in order to encourage the commencement of development and boost the provision of new market and affordable housing supply in accordance with paragraph 47 of the National Planning Policy Framework 2012 and paragraph 027 of the National Planning Policy Guidance 2014.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management.

The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and Maidstone Landscape Character Assessment Supplement 2012 (Harrietsham to Lenham Vale landscape type), and shall include, inter alia, the retention of all trees and hedges identified as such in the Sylvan Arb Arboricultural Report (Tree Survey and Tree Constraints Plan) ref SA/771/13 received 24th October 2013; the retention and repair of hedgerows and tree lines within the site; the provision of wild flower meadow areas; and provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting).

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

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

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

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

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

8. The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

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

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

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

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

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

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

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

12. Notwithstanding the details and recommendations set out in JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014, the development shall not commence until a long term management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall incorporate the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on the site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.
- i) Specific details and locations of the biodiversity enhancement measures outlined JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014 and the inclusion of enhancement measures to be incorporated into the fabric of buildings.
- j) Details of the management of open space areas to provide biodiversity enhancement.

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

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

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

Reason: in the interests of residential amenity.

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

Reason: in the interests of residential amenity.

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

The drainage details submitted to the Local Planning Authority shall:

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

Specify a timetable for implementation; and

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

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

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

16. No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

all previous uses;

potential contaminants associated with those uses; and

a conceptual model of the site indicating sources, pathways and receptors potentially unacceptable risks arising from contamination at the site.

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

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

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

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

Reason: to prevent pollution to the environment.

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

Reason: to prevent pollution of the environment.

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

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

Reason: to prevent pollution of the environment.

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

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

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

Reason: to prevent pollution to the environment.

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

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

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

Reason: in the interests of road safety.

INFORMATIVES

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

Bats and Lighting in the UK

Summary of requirements

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

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

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

UV characteristics:

Low

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

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

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

High

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

Mercury lamps (MBF) emit a high UV component.

Tungsten Halogen, if unfiltered, emit a high UV component

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

Variable

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

Street lighting

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

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

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

Security and domestic external lighting

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

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

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

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

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

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

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

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

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

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

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

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

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

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

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

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

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

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

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

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

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

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

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

Case Officer: Catherine Slade

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

Reference number: MA/13/1823

Recommendation:

Due to the uncertainty over the precise sums involved for highway and associated public realm improvements the recommendation should be changed to read as follows:

"The Head of Planning be given DELEGATED POWERS TO GRANT outline permission subject to the conditions and informatives set out in the report and to the prior completion of a Section 106 legal agreement in such terms as the Head of Legal Services may advise to secure the following".

Affordable Housing:

Cllr Sams has requested that consideration be given to securing a similar level of local needs housing within the scheme to that secured by way of the legal agreement relating to MA/11/0592 – Land at West Street and Hook Lane).

Officer comment:

The application has been put forward on the basis of providing 40% affordable housing for the benefit of the residents of Maidstone, and has been assessed on that basis, in accordance with the Council's adopted Affordable Housing DPD. Local need has in part been addressed by way of the provision on the The Hollies site, and affordable housing on this site and others currently under consideration in and around Harrietsham will also contribute towards addressing this need (which has not recently been assessed).

Members will be aware that this pro rata allocation was not requested in relation to MA/14/0095 (Land at Church Road, Harrietsham, Kent) which came before the Planning Committee in December 2014, and it is considered appropriate that this matter is dealt with in a consistent manner, and in the case of the application currently under consideration, on the basis on which it was submitted, although the Council's Housing Officers have indicated that they would be happy to work with the Parish Council in determining whether a local need still exists.

For these reasons, it is considered that, in accordance with the comments of the Maidstone Borough Council Housing Officer, the affordable housing secured by way of a grant of planning permission should not be restricted for local needs housing.

Matters of scale:

Paragraph 7.17 of the report suggests that scale should be the subject of a condition. As discussed in paragraph 7.23, the physical properties of the site and the specific character of the setting are such that in the circumstances of this case it is considered that a restriction in terms of the matter of scale, which would be considered in full in the determination of any subsequent reserved matters or full application coming forward, would be unduly restrictive.

Additional Objections:

Additional representations objecting to the application have been received, the main points raised are summarised below:

- Sustainability of the site for residential development;
- The works proposed to the A20 on the operation of existing accesses, specifically the siting of uncontrolled pedestrian crossings.

Officer comment:

The sustainability of the site is dealt with in the Committee report. In respect of the A20

improvement scheme, this is a scheme of proposed works to the A20 throughout Harrietsham which is currently in the process of being finalised.

The A20 improvement scheme at the current time is indicative, and any works proposed to the public highway will be required to be acceptable to Kent County Council Highway Services, and for the avoidance of doubt I propose an additional informative as follows:

“The highway improvements to the A20 associated with the development shall include the provision of a pedestrian footway along the southern side of the highway linking the development with the existing bus stop and an uncontrolled crossing in the close vicinity of the existing bus stop.”

Condition 5 - Materials:

Councillor Harwood has requested that the materials condition (Condition 5) be amended so as to make explicit the need to integrate biodiversity enhancements within the fabric of the development, and as such I propose to amend the condition to read as follows:

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

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

I also propose an additional informatives as follows:

The bat boxes and swift bricks required by condition 5 shall be located in accordance with guidance published by the Bat Conservation Trust and Royal Society for the Protection of Birds, which can be found at http://www.bats.org.uk/pages/bat_boxes.html and <http://www.rspb.org.uk/advice/helpingbirds/nestboxes/smallbirds/siting.aspx>.”

Recommendation:

Subject to the amendments set out above, my recommendation remains unchanged.

REPORT SUMMARY

REFERENCE NO - 13/1823		
APPLICATION PROPOSAL		
An outline planning application for the demolition of existing buildings and the erection of 49 dwellings and associated car parking and landscaping, with the matter of access to be considered at the current time and all other matters reserved.		
ADDRESS Mayfield Nursery, Ashford Road, Harrietsham, Maidstone, Kent, ME17 1BN		
RECOMMENDATION Amend S106 contributions as set out in report		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL		
The proposed development does not conform with policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. However, the development is at a sustainable location; immediately adjoins an existing settlement; is identified under policy H1 (27) in the emerging Local Plan as a housing allocation and complies with the criteria set out in the relevant policy; and would not result in significant planning harm. In this context, and given the current shortfall in the required five year housing land supply, the low adverse impacts of the proposal are considered to be outweighed by the benefits of the scheme. As such the development is considered to be in compliance with the National Planning Policy Framework, and this represents sufficient grounds for a departure from the Local Plan.		
REASON FOR REFERRAL TO COMMITTEE		
To seek the agreement of Members of the Planning Committee to amend the S106 contributions being sought.		
WARD Harrietsham And Lenham Ward	PARISH/TOWN Harrietsham	COUNCIL
		APPLICANT Mr Habil Kapasi AGENT Robinson Escott Planning
DECISION DUE DATE 30/01/14	PUBLICITY EXPIRY DATE 30/01/14	OFFICER SITE VISIT DATE Various
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		

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

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

MAIN REPORT

1.0 BACKGROUND

1.01 The current application seeks outline planning permission for the demolition of existing buildings and the erection of 49 dwellings and associated car parking and landscaping, with the matter of access to be considered at the current time and all other matters reserved on a site adjoining the southern eastern boundary of the rural service centre of Harrietsham.

1.02 The application was reported to the Planning Committee meeting held on 15th January 2015. Members resolved to give the Head of Planning and Development delegated powers to grant planning permission subject to conditions and the prior completion of a S106 legal agreement prior legal agreement in such terms as the Head of the Legal Partnership may advise to secure the following:

- *The provision of 40% affordable residential units within the application site; and*
- *A contribution of £2,360.96 per applicable house and £590.24 per applicable flat towards the build costs of extending Harrietsham Primary School; and*
- *A contribution of £30.70 per dwelling to be used to address the demand from the development towards the provision of new/expanded facilities and services both through dedicated adult education centres and through outreach community learning facilities local to the application site; and*
- *A contribution of £8.44 per dwelling to be used to address the demand from the development towards youth services through increased centre based youth services local to the application site; and*
- *A contribution of £122.01 per dwelling to be used to address the demand from the development towards additional book stock and services at libraries local to Harrietsham; and*
- *A contribution of £15.95 per dwelling to address the demand from the development for adult social services to be used towards the provision of new/expanded facilities and services both on site and local to the development, including assistive technology and enhancement of local community facilities to ensure full DDA access; and*
- *A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) to be prioritised firstly towards healthcare facilities at The Glebe Medical Centre, Harrietsham and then The Len Valley Medical Centre, Lenham; and*

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

1.03 The Committee report and urgent updates to the Committee report are attached as Appendix A to this report.

2.0 REASON FOR REFERRAL BACK TO PLANNING COMMITTEE

2.01 As Members will be aware, S123 of the CIL Regulations came into force on 6th April 2015. Prior to this date, all contributions subject to a S106 agreement were required under the terms of S122 of the CIL Regulations to be tested in respect of being necessary to make the application acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Subsequent to this date, S123 of the CIL Regulations additionally requires all contributions being sought by way of S106 agreements to relate to the funding or provision of an infrastructure project or type of infrastructure, and further that no more than five separate planning obligations can contribute towards the funding or provision of a project or type of infrastructure. As such, the scope of contributions that can be sought in respect of new development is restricted, although affordable housing is excluded from the pooling restriction on contributions.

2.02 In the circumstances of this case, the coming into force of S123 directly effects and changes the following elements of the Heads of Terms:

- *A contribution of £30.70 per dwelling to be used to address the demand from the development towards the provision of new/expanded facilities and services both through dedicated adult education centres and through outreach community learning facilities local to the application site; and*
- *A contribution of £8.44 per dwelling to be used to address the demand from the development towards youth services through increased centre based youth services local to the application site; and*
- *A contribution of £122.01 per dwelling to be used to address the demand from the development towards additional book stock and services at libraries local to Harrietsham; and*
- *A contribution of £15.95 per dwelling to address the demand from the development for adult social services to be used towards the provision of new/expanded facilities and services both on site and local to the development, including assistive technology and enhancement of local community facilities to ensure full DDA access; and*
- *A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) to be prioritised firstly towards healthcare facilities at The Glebe Medical Centre, Harrietsham and then The Len Valley Medical Centre, Lenham; and*
- *A contribution towards highway improvements to the A20 in Harrietsham (final amount to be confirmed).*

2.03 Kent County Council have reassessed their requests in light of S123 of the CIL Regulations, and in particular in relation to the limitation on the pooling of contributions, and as a result they are no longer seeking a contribution towards adult education or adult social services. In addition, the contribution towards library services has been reduced to £2,352.78, and it has been specified that this will be used to fund the mobile library serving Harrietsham.

2.04 Kent County Council have provided further details of the contributions sought towards primary education and youth services, and confirm that these requests

satisfy the tests in relation to pooling set out in the CIL Regulations; these contributions therefore remain in place.

- 2.05 In respect of the A20 improvement scheme, the cost of the evolving scheme is such that a contribution of £3,500 per dwelling in respect of the housing site allocations identified in the emerging Local Plan within and adjacent to the rural service centre of Harrietsham is required to secure delivery of the highway and public realm improvements that are sought in order to reconcile the north and south of the village and allow for the necessary safeguarding of the amenity of local residents in this regard. It is considered that this contribution meets the tests set out in the CIL Regulations.
- 2.06 The relevant consultee has confirmed that the contribution sought in relation to public healthcare will be directed towards the improvement of The Glebe Medical Centre in Harrietsham, and that this request falls within the five obligation limitation on pooling.
- 2.07 The Heads of Terms as set out below have been amended in accordance with the changes to the requests, including specific reference to the destination of the contributions, as set out in paragraphs 2.03 – 2.05 above. In addition, additional condition 23 and additional informatives are included in the recommendation, in accordance with the resolution of the Planning Committee at the meeting on 15th January 2015.

3.00 RECOMMENDATION

- 3.01 The recommendation, as amended in respect of the Heads of Terms for contributions, additional condition 23 and additional informatives as previously resolved by Planning Committee, is set out in full below for the purposes of clarity:

SUBJECT TO THE PRIOR COMPLETION OF A LEGAL AGREEMENT, IN SUCH TERMS AS THE HEAD OF THE LEGAL PARTNERSHIP ADVISES, TO PROVIDE THE FOLLOWING:

- *The provision of 40% affordable residential units within the application site; and*
- *A contribution of £2,360.96 per applicable house and £590.24 per applicable flat towards the first phase of the 1FE expansion of Harrietsham Primary School; and*
- *A contribution of £413.56 to be used to address the demand from the development towards youth services (supplied to youth workers and organisations serving Harrietsham); and*
- *A contribution of £2,352.78 to be used to address the demand from the development towards additional book stock supplied to the mobile library service serving the development) and*
- *A contribution of £23,587 (£360 per predicted occupier based on size of market dwellings) towards the improvement of healthcare facilities at The Glebe Medical Centre, Harrietsham being the provision of two additional clinical rooms; and*
- *A contribution of £3,500 per dwelling towards highway improvements to the A20 in Harrietsham.*

THE HEAD OF PLANNING AND DEVELOPMENT BE GIVEN DELEGATED POWERS TO GRANT OUTLINE PLANNING PERMISSION SUBJECT TO THE IMPOSITION OF THE CONDITIONS SET OUT BELOW:

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

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

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

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

Reason: no such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990, and in order to encourage the commencement of development and boost the provision of new market and affordable housing supply in accordance with paragraph 47 of the National Planning Policy Framework 2012 and paragraph 027 of the National Planning Policy Guidance 2014.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) 6. The development shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management.

The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012 and Maidstone Landscape Character Assessment Supplement 2012 (Harrietsham to Lenham Vale landscape type), and shall include, inter alia, the retention of all trees and hedges identified as such in the Sylvan Arb Arboricultural Report (Tree Survey and Tree Constraints Plan) ref SA/771/13 received 24th October 2013; the retention and repair of hedgerows and tree lines within the site; the provision of wild flower meadow areas; and provision of on site reptile receptor site with suitable levels of connectivity with the surrounding reptile habitat and habitat for the Cinnabar Moth (through the provision of Ragwort planting).

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

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

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

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

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

(8) The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) including details of any tree works that would be necessary to implement the proposal, which shall include details of all trees to be retained and the proposed measures of protection, undertaken in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations" has been

submitted to and approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design for all buildings within root protection zones, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

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

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

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

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

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

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

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

(12) Notwithstanding the details and recommendations set out in JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014, the development shall not commence until a long term management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall incorporate the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on the site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;

- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- g) Details of the body or organisation responsible for implementation of the plan;
- h) Ongoing monitoring and remedial measures.
- i) Specific details and locations of the biodiversity enhancement measures outlined JFA Landscape and Ecology Ecological Assessment ref KEN 1836 received 24th October 2013 and JFA Landscape and Ecology Ecological Survey Report Bats and Reptiles ref KEN 1836 received 22nd April 2014 and the inclusion of enhancement measures to be incorporated into the fabric of buildings.
- j) Details of the management of open space areas to provide biodiversity enhancement.

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

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

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

Reason: in the interests of residential amenity.

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

Reason: in the interests of residential amenity.

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

The drainage details submitted to the Local Planning Authority shall:

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

Specify a timetable for implementation; and

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

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

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

(16) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1) A preliminary risk assessment which has identified:

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

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

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

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

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

Reason: to prevent pollution to the environment.

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

Reason: to prevent pollution of the environment.

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

Reason: to prevent pollution of the environment.

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

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

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

Reason: to prevent pollution to the environment.

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

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

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

Reason: in the interests of road safety.

(23) The details of landscape, ecological mitigation and sustainable surface water drainage required by conditions 1, 6, 12 and 15 above shall include, inter alia, an ecological receptor site and a sustainable urban drainage system in the south of the site adjacent to the site boundary.

Reason: in the interest of pollution and flood prevention, and safeguarding biodiversity assets.

INFORMATIVES

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

Bats and Lighting in the UK

Summary of requirements

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

1. The UV component. Low or zero UV installations are preferred to reduce attraction of insects to lighting and therefore to reduce the attraction of foraging bats to these areas.

2. Restriction of the area illuminated. Lighting must be shielded to maintain dark areas, particularly above lighting installations, and in many cases, land adjacent to the areas illuminated. The aim is to maintain dark commuting corridors for foraging and commuting bats. Bats avoid well lit areas, and these create barriers for flying bats between roosting and feeding areas.

UV characteristics:

Low

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

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

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

High

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

Mercury lamps (MBF) emit a high UV component.

Tungsten Halogen, if unfiltered, emit a high UV component

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

Variable

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

Street lighting

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

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

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

Security and domestic external lighting

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

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

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

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

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

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

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

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

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

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

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

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

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

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

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

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

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

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

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

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

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

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

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

(5) The design of any scheme coming forward at reserved matters stage should, in its detailing, reflect the local vernacular of the built environment to the south of Ashford Road in the vicinity of Harrietsham.

(6) The materials submitted in accordance with condition 5 should be considered in conjunction with Ward Members and Harrietsham Parish Council.

Case Officer: Catherine Slade

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

REPORT SUMMARY

REFERENCE NO - 14/504109/ADV			
APPLICATION PROPOSAL Advertisement consent for the installation of 2no. non-illuminated metal pole mounted signs (Retrospective Application)			
ADDRESS Hunton C Of E Primary School Bishops Lane Hunton Kent ME15 0SJ			
RECOMMENDATION Grant advertisement consent with conditions			
SUMMARY OF REASONS FOR RECOMMENDATION Government guidance in the National Planning Policy Framework states that advertisements should be subject to control only in the interests of amenity and public safety. The two non-illuminated sign boards, the subject of this application, have already been erected on the West Street and West Street/Bishop's Lane corner frontages of the school site and the application is therefore retrospective. Whilst the two non-illuminated sign boards have a visual impact in the street scene along West Street and at the Bishop's Lane/West Street junction, it is not considered that the sign boards appear as unduly intrusive in the street scene or at the junction, or have an unacceptable impact on the character or appearance of the area, or the visual amenities of the surrounding area generally. With regards to interests of amenity, it is not considered that the two freestanding non-illuminated sign boards conflict with Government guidance in the NPPF or the relevant policies of the Maidstone Borough-Wide Local Plan. It is not considered that the two sign boards raise any overriding public safety issues.			
REASON FOR REFERRAL TO COMMITTEE Consideration of this application was deferred at the Planning Committee Meeting held on the 14 th of January, 2016, to enable Officers negotiate movement of the sign boards to locations that are less visually intrusive.			
WARD Coxheath And Hunton Ward	PARISH/TOWN COUNCIL Hunton	APPLICANT Mrs Lorraine Redfarn AGENT N/A	
DECISION DUE DATE 14/11/14	PUBLICITY EXPIRY DATE 14/11/14	OFFICER SITE VISIT DATE 30/11/15 & 24/04/2017	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
MA/08/1644	A consultation with Maidstone Borough Council by Kent County Council for the erection of a single-storey extension comprising new classroom, entrance and hallway.	Raise no objections	02.09.08
MA/08/0455	An article 10 consultation with Maidstone Borough Council by Kent County Council for the installation of a flag pole.	Raise no objections	01.04.88
MA/06/1106	A consultation with Maidstone Borough Council by Kent County Council for formation of a revised pedestrian access from West Street, install new (localized) kerb line, dot type barrier	Raise no objections	11.07.06

	and form new ramp and steps. Maintain boundary hedge.		
MA/03/0747	Kent County Council consultation for retention of the development construction of new school hall, playground, parking, and associated alterations without complying with condition 7 of MA/02/0942.	Raise no objection	01.05.03
MA/02/1292	A consultation with Maidstone Borough Council by Kent County Council for construction of new school hall, playground, parking, and associated alterations to school (Regulation 3 application)	Raise no objections	19.08.02
MA/02/0942	Construction of new school hall, playground, parking and associated alterations to school.	Raise no objections	22.05.02

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site is located on the south-eastern side of West Street at the junction of Bishop's Lane with West Street and more or less opposite the junction of Grove Lane with West Street. The site is the Hunton C of E Primary School situated on the corner site on the north-eastern side of the junction of Bishop's Lane with West Street. The school site is accessed from Bishop's Lane with a further pedestrian access on the West Street frontage. The Primary School consists of predominantly single-storey buildings, incorporates hardsurfaced and grass play areas to the north-eastern side, and the site is generally well screened by trees and hedges along the boundaries. Residential properties stand opposite the site along West Street and there are further residential properties on the opposite corners at the junctions of Bishop's Lane and Grove Lane with West Street. Agricultural land adjoins the school site to the south and south-east.
- 1.02 The school site is located in the open countryside outside any village development boundary shown on the Proposals Map to the Maidstone Borough-Wide Local Plan. The site forms part of a defined Special Landscape Area as shown on the Proposals Map. A public footpath (KM170) runs to the south of the site. The open land adjoining the school site to the south and east is part of Hunton Court, an area identified as being an Important Historic Park/Garden on the Proposals Map.

2.0 PROPOSAL

- 2.01 The application seeks advertisement consent for the display of two freestanding non-illuminated sign boards mounted on poles within the Primary School site. The application is retrospective as the sign boards are already in place and appear to have been so for the past 20/21 months. One sign board is located on the corner of the school site at the junction of Bishop's Lane with West Street and faces west along West Street. The second sign board was originally located on the West Street frontage of the school site at pedestrian access to the site from West Street facing onto West Street. Following objections from Hunton Parish Council and neighbouring residents, this sign board has been relocated to the eastern corner of the West Street frontage of the school site and faces north east.

2.02 The two sign boards comprise of a main panel 1.79m wide by 0.91m deep with two smaller panels 1.79m wide by 0.15m deep below. The metal sign boards are supported on two metal poles either side. The submitted plans show the sign boards to have an overall height of 3.19m above ground level with the lower of the two smaller sign boards below the main panel being 1.67m above ground level. The sign boards are elevated above ground level so as to be visible above the hedging to the road frontages of the school site. The sign boards consist of royal blue and white text on pale green and mid-green backgrounds and the boards identify the school name and telephone number, the name of the Headteacher and the name of the Site Manager.

2.03 The application states that the current sign boards for which retrospective advertisement consent is being sought replaced smaller signs in the same locations.

3.0 PLANNING CONSTRAINTS

3.01 The school site is located in the open countryside outside any village development boundary shown on the Proposals Map to the Maidstone Borough-Wide Local Plan.

3.02 The site forms part of a defined Special Landscape Area as shown on the Proposals Map to the Maidstone Borough-Wide Local Plan.

3.03 The open land adjoining the school site to the south and east is part of Hunton Court, an area identified as being an Important Historic Park/Garden on the Proposals Map to the Maidstone Borough-Wide Local Plan.

3.04 Scotts House on the south-western side of the junction of Grove Lane with West Street is Grade II listed.

3.05 A public footpath (KM170) runs to the south of the site.

3.06 No overriding planning constraints have been identified which would make the principle of the erection of non-illuminated advertisement signs within the school site unacceptable from a planning point of view.

4.0 POLICY AND OTHER CONSIDERATIONS

- The National Planning Policy Framework (NPPF): Section 7, para. 67
- National Planning Practice Guidance (NPPG): Advertisements
- Development Plan: Maidstone Borough-Wide Local Plan (2000): Policies ENV8, ENV28, ENV34
- Maidstone Borough Council Draft Local Plan: Policies SP5, DM4, DM7

5.0 LOCAL REPRESENTATIONS

5.01 Two objections to the application have been received from residents of neighbouring properties in West Street on the following grounds:

- The oversized sign immediately opposite our house was erected prior to planning permission being sought.
- The sign can be seen from every front window as it is over 3 metres tall, in an elevated position and displayed high up above the rural hedge that skirts the school grounds.
- The sign is an absolute eyesore in this rural setting.

- Hunton is a rural neighbourhood area and is especially vulnerable to the visual effects of outdoor advertisements.
- The local characteristics of the neighbourhood should be taken into consideration.
- The sign is inappropriate for the setting, is not in scale or in keeping with the rural area.
- The sign is unsightly, intrusive, garish and blocks the vision across open countryside for the house immediately opposite.
- The style and materials used to construct the sign are totally out of keeping with the rural environment we live in.
- It is virtually impossible to see the sign from the road.
- The sign only advertises a local school that everybody is aware of anyway.
- The sign serves no purpose and mars the otherwise lovely rural landscape that is Hunton.
- The sign gives no indication of the entrance to the school.
- There is an identical sign on the corner of West Street and Bishops Lane which is not overlooked by anyone and can be seen by road users.
- The previous sign opposite the houses on West Street was much smaller and situated much lower.
- Why does the school need two signs?

5.02 Two further comments have been received from residents of neighbouring properties in West Street neither objecting or in support of the relocated position. However, one of the comments states that the pole mounted signs are too close to the school to be fully effective.

5.03 Hunton Parish Council objected to the sign on West Street due to it being unnecessarily visually intrusive in a rural setting. The Parish Council commented that they would like to see the retrospective application refused and the sign removed. The Parish Council further commented that they would like the application to go to the Planning Committee.

5.04 Regarding the relocated position of the sign boards, Hunton Parish Council comments that it has no objection to the relocated position of the signs.

6.0 CONSULTATIONS

6.01 **KCC Highways:** Raise no objection.

7.0 BACKGROUND PAPERS AND PLANS

7.01 The retrospective application for advertisement consent is accompanied by the following drawings/documents:

A plan of the Hunton C of E Primary School site showing the position of the signs.
A drawing showing details of the signs.
Letter dated 08.12.14.

8.0 APPRAISAL

8.01 As noted under section 2.0, the current application seeks advertisement consent for the display of two freestanding non-illuminated sign boards mounted on poles within the Primary School site. The application is retrospective as the sign boards are already in place and appear to have been so for a number of months prior to the submission this application. One sign board is located on the corner of the school site at the junction of Bishop's Lane with West Street and faces west along West Street. The

second sign board which was originally located on the West Street frontage of the school site at the pedestrian access to the site from West Street have now been relocated to the north eastern corner of the site and facing north east.

- 8.02 The two sign boards comprise of a main panel 1.79m wide by 0.91m deep with two smaller panels 1.79m wide by 0.15m deep below. The metal sign boards are supported on two metal poles either side. The submitted plans show the sign boards to have an overall height of 3.19m above ground level with the lower of the two smaller sign boards below the main panel being 1.67m above ground level. The sign boards are elevated above ground level so as to be visible above the hedging to the road frontages of the school site. The sign boards consist of royal blue and white text on pale green and mid-green backgrounds and the boards identify the school name and telephone number, the name of the Headteacher and the name of the Site Manager.
- 8.03 The application states that the current sign boards for which retrospective advertisement consent is being sought replaced smaller signs in the same locations.
- 8.04 Policy ENV8 of the Maidstone Borough-Wide Local Plan sets out the criteria to be met for proposals for new signage and for commercial or retail frontages. The criteria to be met include the following:
- The size, design, positioning, materials, colour and method of illumination of signage is not detrimental to the character and appearance of the building or the surrounding area.
 - The design of frontages takes into account both the building(s) of which they form part and the neighbouring properties.
 - Fascias are not unduly large or prominent within the street scene.
- 8.05 The Town and Country Planning (Control of Advertisements) (England) Regulations (2007) states that advertisement can only be assessed on amenity and public safety considerations, taking account of cumulative impacts. Government guidance on advertisements in the National Planning Policy Framework (March 2012) states (para. 67) that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment.
- 8.06 The school site is located in the open countryside outside any village development boundary shown on the Proposals Map to the Maidstone Borough-Wide Local Plan. Policy ENV28 of the Local Plan seeks to protect the countryside from inappropriate development which harms the character and appearance of the area.
- 8.07 The site forms part of a defined Special Landscape Area as shown on the Proposals Map to the Maidstone Borough-Wide Local Plan. Policy ENV34 of the Maidstone Borough-Wide Local Plan states that in the defined Special Landscape Areas particular attention will be given to the protection and conservation of the scenic quality and distinctive character of the area and priority will be given to the landscape over other planning considerations.
- 8.08 Government guidance in the National Planning Policy Framework (para. 109) advises that valued landscapes should be protected and enhanced.

Amenity

- 8.09 The two non-illuminated sign boards are relatively large (the three separate panels which make up each sign board have a combined area, including the small gaps between the panels, of 1.79m in width and 1.29m in depth) and are elevated above ground level (overall height 3.19m) so as to be visible above the hedging to the road frontages of the school site. The two signs are also prominently sited close to the site frontages to West Street and the West Street/Bishop's Lane corner frontage and have a limited visual impact in the street scene along West Street and at the Bishop's Lane/West Street junction. However, the two signs are not considered to be excessive in size and scale, and, given the size of the school site with two road frontages and accesses from Bishop's Lane and West Street, the provision of two identical signs to the site is not considered to be wholly inappropriate.

The two sign boards are not elevated significantly above the hedging to the road frontages of the school site and are viewed in the context of Hunton C of E Primary School complex and the group of residential properties along the opposite side of West Street and around the junctions of Bishop's Lane and Grove Lane with West Street as opposed to the surrounding open countryside. In the circumstances it is not considered that the two sign boards appear as unduly intrusive in the street scene along West Street or at the Bishop's Lane/West Street junction, or have an unacceptable impact on the character or appearance of the area, or the visual amenities of the surrounding area generally.

- 8.10 West Street and Bishop's Lane separate the school site from the neighbouring residential properties along West Street to the north-west and south-west of the site respectively. Whilst the two sign boards impact on outlook to the front of the neighbouring properties which stand opposite the school site along West Street, it is considered that they are sufficiently distanced from those neighbouring properties to prevent any unacceptable unneighbourly impacts. Impact in the views of the school site and the wider open countryside beyond from the neighbouring properties is not a ground for refusal.
- 8.11 The sign board on the West Street/Bishop's Lane corner frontage of the school site is sufficiently distanced and separated from the Grade II listed Scotts House property on the south-western side of the junction of Grove Lane with West Street to prevent any harmful impact on the setting of the listed building.
- 8.12 With regards to interests of amenity, it is not considered that the two freestanding non-illuminated sign boards mounted on poles which have been erected on the West Street and West Street/Bishop's Lane corner frontages of the school site conflict with the above Government guidance in the NPPF or policies ENV8, ENV28 and ENV34 of the Maidstone Borough-Wide Local Plan.

Public safety

- 8.13 The two freestanding non-illuminated sign boards mounted on poles which have been erected on the West Street and West Street/Bishop's Lane corner frontages of the school site are clearly designed and sited to be visible from West Street. Whilst the two sign boards are sited close to the respective frontages of the school site, they are set behind the hedging along the road frontages of the site and are elevated so as to be visible above the hedging. The non-illuminated sign boards do not obstruct any sight lines or access to and from the school site or pedestrian and vehicle movements along West Street and Bishop's Lane. It is not considered that the sign boards are a source of distraction to pedestrian and/or vehicle movements along West Street and Bishop's

Lane or at the junctions of Bishop's Lane and Grove Lane with West Street. Kent Highways have commented that having considered the development proposals and the effect on the highway network, Kent Highways raise no objection. In light of the comments from Kent Highways, it is not considered that the two freestanding non-illuminated sign boards mounted on poles which have been erected on the West Street and West Street/Bishop's Lane corner frontages of the school site raise any overriding public safety issues.

9.0 CONCLUSION

9.01 Government guidance in the National Planning Policy Framework states that advertisements should be subject to control only in the interests of amenity and public safety. The two non-illuminated sign boards, the subject of this application for advertisement consent, have already been erected on the West Street and West Street/Bishop's Lane corner frontages of the school site and the application is therefore retrospective.

9.02 Whilst the two non-illuminated sign boards which have been erected have a visual impact in the street scene along West Street and at the Bishop's Lane/West Street junction, it is not considered that the sign boards appear as unduly intrusive in the street scene or at the junction, or have an unacceptable impact on the character or appearance of the area, or the visual amenities of the surrounding area generally.

9.03 With regards to interests of amenity, it is not considered that the two freestanding non-illuminated sign boards conflict with Government guidance in the NPPF or the relevant policies of the Maidstone Borough-Wide Local Plan. It is not considered that the two sign boards raise any overriding public safety issues. The grant of retrospective advertisement consent can therefore be recommended.

10.0 RECOMMENDATION – GRANT advertisement consent subject to the following conditions:

- (1)
 - (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
 - (ii) No advertisement shall be sited or displayed so as to -
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
 - (iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
 - (iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

- (v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity;

Reason: In accordance with the provisions of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- (2) The advertisements for which consent is hereby granted must be removed in accordance with the requirements of condition 1(v) above within five years of the date of this consent;

Reason: In accordance with the provisions of Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

INFORMATIVES

- (1) This grant of advertisement consent is based on the following submitted plans:

Drawing number B1494400 - 05 received 24.04.17 - Position of signs drawing
Details of signs drawing received 19.09.14

Note to Applicant:

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work 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 was acceptable as submitted and no further assistance was required.

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

Case Officer: Jon Barnes

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.

REPORT SUMMARY

REFERENCE NO - 15/501528/FULL		
APPLICATION PROPOSAL Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective).		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr P Roots AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 16/03/16

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.1 The application site is broadly rectangular in shape with an west to east orientation. Existing gypsy and traveller (G&T) development abuts the site to the east and west. This is shown on the plan attached as **APPENDIX 1** identifying lawful and unauthorised sites in the locality. The site is set just under 20 metres back from Maplehurst Lane. There is an existing mobile home stable block and utility room abutting the southern site boundary with the remaining area mainly made up of an open paddock and hardstanding.
- 1.2 Site access is gained via a narrow trackway onto Maplehurst Lane
- 1.3 In a wider context the site is located in open countryside identified as a Special Landscape Area (SLA) in the adopted local plan.

2.0 PROPOSAL

- 2.1 Retrospective planning permission is sought to retain an existing mobile home to be used for G&T accommodation by the applicant and his family along with a utility room having a footprint 4.5x7.5 metres, an eaves height of 2.6 metres and a ridge height of 3.3 metres and a stable block having a footprint of 10.9x3.6 metres, an eaves height of 2.2 metres and a ridge height of 2.7 metres.

- 2.2 Surface water will drain into adjoining watercourses while waste water will be dealt with by septic tank.

Response to request for clarification of gypsy status:

- 2.3 Revised Government guidance which came into force in August 2015 requires persons claiming gypsy and traveller status to provide evidence to show they intend to carry on a nomadic /traveller lifestyle. To fall within the definition of a nomadic lifestyle requires the adult occupants of the site move from place to place in the pursuit of work. The following has been submitted to in connection with the applicant's gypsy status:

- Take wife and sons to Appleby and Stowe for 2-3 weeks at a time where they meet up with family and friends along with carrying out tree and roofing work.
- The site is occupied by Paul Roots (the applicant) and Tammy Phillips, Jesse Phillips (8), Vinnie Phillips (6), Isaiah Phillips (4) Elijah Phillips (1) and Delilah Phillips (4 months)
- Need to have a permanent base to give children an education to improve their long term prospects as it is becoming more difficult to pursue a traveller lifestyle.
- Eldest son wants to be a farrier and two other sons attend Marden Primary school.
- Still intend to travel but to ensure the children maintain their education means that this will be more restricted.
- The applicant will continue travelling up and down the country dealing in horses, motor vehicles along with tree work.

- 2.4 In January 2017 further information was sought on the applicants circumstances seeking detailed information on how they (a) comply with the revised G&T definition in pursuing a nomadic lifestyle, (b) details of any health conditions which may preclude a nomadic lifestyle and (c) details of any children and education history.

- 2.5 No response appears to have been received to the above request and the application will therefore be determined on the basis of the information already submitted.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There are existing gypsy and traveller sites abutting and close to the application site. These are shown on the location plan attached as **APPENDIX 1** along with their current planning status.

- 3.2 The two unauthorised sites fronting the eastern side of Maplehurst Lane to the north of the access serving this application site and subject to the planning applications refs: MA/13/1713 and 13/1732 have now both been refused. The grounds for refusal were (a) being visually intrusive development on their own and in combination with existing lawful G&T development fronting Maplehurst Lane harmful to the rural and landscape quality of the area and (b) the personal circumstances of the applicants insufficient to weigh against the harm identified. Enforcement notices requiring the use of the land to cease will be served shortly.

- 3.3 Turning to the application site, subject of this application, the site lies within an existing and larger gypsy and traveller (G&T) site known as Perfect Place. Under ref: MA/13/0466 Perfect Place was granted planning permission on the 1st July 2014 for the permanent retention of a mobile home, touring caravan and pole barn, utility room, 2 stable blocks and a sand school. This planning permission was subject, amongst other things, to condition 1 worded as follows:

No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and one touring caravan, which shall not be used for permanent habitation purposes, shall be stationed on the land at anyone time.

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

- 3.4 Located within the Perfect Place site and immediately abutting the current application site to the east is another G&T site for which part retrospective planning permission is being sought under ref:MA/15/501537 for the change of use of the land to enable the stationing of a mobile home, utility room, stable block and touring caravan. This application is also on the agenda for determination by the Planning Committee.
- 3.5 The current application site abuts the eastern boundary of the Blossom site fronting Maplehurst Lane (also falling within the Perfect Place site). Planning permission was granted on the Blossom site under ref:MA/14/503810 for the change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed for a gypsy and traveller family. This decision has since been the subject of a judicial review (JR) attached as **APPENDIX 2**.
- 3.6 In summary the lawfulness of the Blossom decision was challenged on five grounds, four of which the Council successfully defended. Nevertheless the Court decided to quash the planning permission on the basis that the report to the Planning Committee had not described the planning status of nearby traveller sites, which the Court considered may have made a difference to the Planning Committee's decision. In particular, the Court considered the Committee may have granted temporary rather than full planning permission. The Court's decision is based on case-specific considerations and otherwise vindicates the Council's general approach to applications of this nature. It would normally be the case that the application would be re-determined by Planning Committee.
- 3.7 However the original applicant no longer occupies the site which was vacated for a period. It has now been reoccupied and when the site was reinspected on the 27th April 2017 this confirmed its continued occupation with a mobile home and one touring caravan present. The whole site remains covered with ballast hardstanding while a propane gas tank standing on a concrete base has been installed. Closeboarded fencing with immature landscaping abutting fronts the site.
- 3.8 As the original applicant no longer occupies the site and no longer wants the application determined the Council is not in a position to redetermine the application. Regarding the current occupation of the Blossom site as no planning permission exists this is currently unauthorised. However no planning permission has been submitted seeking to regularise the position.

4.0 POLICIES AND OTHER CONSIDERATIONS

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- Staplehurst Neighbourhood Plan
- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies:SP17, DM16, DM34
- Planning Policy for Traveller Sites (PPTS)

5.0 LOCAL REPRESENTATIONS

5.1 8 properties were notified of this application 9 objectors have made representations which are summarised as follows:

- Granting planning permission would lead to further plots being sold off on a piecemeal basis and given the number of existing G&T sites in the locality the settled community is becoming completely dominated therefore increasing local tensions contrary to Government policy.
- Result in harm to the rural character of the area and Low Weald Special Landscape Area while illumination results in harm to the night time rural environment.
- Contrary to the heritage provisions of the Staplehurst Neighbourhood plan.
- Intentional unauthorised development is a material consideration that should be given great weight in determining this application.
- To grant planning permission would breach the terms of the original permission setting limits on the number of pitches.
- Not convinced the applicant is a G&T.
- The area has been subject to adhoc and unregulated G&T development.
- Not convinced the Council has any idea regarding the numbers or the real impact of the G&T development that has taken place.
- On its own or in conjunction with existing G&T development the net result is a cumulative impact that has eroded the rural character of the area.
- The application cannot be considered in isolation.
- The site is not allocated for G&T development while being sited in open countryside . The Council must justify any decision to approve contrary to Government Guidance.
- There are Listed Buildings in the locality who are adversely affected by retention of the of this G&T site. In addition the site lies in historic landscape and impact of the development on this must be taken into account.
- The site has been subject to flooding exacerbated by the hard surfacing that has taken place.
- Site lies next to a watercourse resulting in contamination and is not a matter that has been enforced by planning condition.
- Site is accessed by narrow countryside roads and granting planning permission will cause ongoing harm to the free flow of traffic and highway safety in the locality.
- Unauthorised G&T development in the locality has had an adverse impact on local wildlife.
- The 2014 Sustainability appraisal did not select Perfect Place as a sustainable G&T allocation and this should apply to this application.
- Conditions imposed on Perfect Place required site to be vacated once original applicants leave the site.

5.2 In addition an objector took independent legal advice that concludes the following:

- The Council cannot determine the application without first identifying the relevant policy framework.
- The applicant is not a gypsy.
- The site lies in open countryside away from existing settlements where permission should be very strictly limited and that permission should only be granted in exceptional circumstances.
- The Councils current GTAA allocation based on an outdated definition of gypsies and is therefore no longer reliable guide on which to base need. In any event if planning permission is to be granted this should be on a temporary basis only.
- As unauthorised occupation of the site took place this is now a material consideration that should be taken into account.

5.3 Weald of Kent Protection Society: Object on the following grounds:

- Applicant assumes gypsy status qualifies for occupancy of this site but consider full justification is required along the lines of Government guidance on traveller sites, whereby applicants need to offer substantial evidence of a nomadic lifestyle.
- Furthermore application is sent from an existing address in a residential area, and the Planning Authority needs to question inability to remain at that address or in a similar dwelling.
- The site in question is in a comparatively remote area of woodland and green fields, some distance from public transport and the Staplehurst health centre and schools.
- Refer to paragraph 25 of the DCLG's Planning Policy for Traveller Sites, whereby locations in the open countryside need to be strictly limited.
- There are already several unauthorised traveller settlements on this Maplehurst Lane site, so the field presents a cumulatively unacceptable aspect.
- Concerned about the health and safety aspects as the area is prone to flooding, and close supervision of sewage, horse waste, and waste water disposal needs to be carried out to ensure that local waterways and water supplies are not contaminated.
- Continuing unauthorised development of traveller pitches at Maplehurst Lane requires a solution as it is unsatisfactory that a lack of a 5-year supply of suitable pitches for travellers should allow settlements like these to become established by default.

5.4 Heritage Protection: Objects on the following grounds:

- Has an unacceptable impact on nearby Listed Buildings
- Should be considered against the Staplehurst Neighbourhood Plan
- Harmful to the landscape character of the locality and appearance of the Low Weald.
- Unacceptable impact on historic landscape and has completely eroded the trackside scene of Maplehurst Lane.

6.0 CONSULTATION RESPONSES

6.1 Staplehurst Parish Council: Wish to see the application refused for the following reasons:

- Compound existing drainage and flooding problems and the overwhelming impact of over intensification on existing residents.
- Felt the cumulative impact of the application was unsustainable and would intensify previous piecemeal and irregular development in the countryside in contravention of Maidstone Borough-Wide Local Plan Policy ENV28 and of DCLG Planning Policy covering sites in rural or semi-rural settings and the need to ensure that the scale of such sites do not dominate the nearest settled community

6.2 Kent Highways: Were consulted on the individual and cumulative impacts of G&T development in this locality and its key points are as follows;

- Understand that the majority of traffic movements access the public highway via private roads onto Frittenden Road. Data sources confirm that there have been no injury crashes at either access point for at least the last 10 years. As such in the context of the NPPF it is not considered a total of 28 static and touring caravans represent a severe impact on the surrounding road network justifying an objection.

6.3 **EA:** The surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such recommend that the development is the subject of a Flood Risk Assessment (FRA).

6.4 **KCC Sustainable Drainage:** Consulted in relation to concerns raised in connection with surface flooding the area and its comments are summarised below:

- Have reviewed the location given the Environment Agency's comments and the larger fluvial concerns but have no record of any surface water issues at these locations.

7.0 BACKGROUND PAPERS AND PLANS

7.1 The development is shown on drawings received on the 23rd March 2015 and site location plan drawn at a scale of 1:500 showing the application site area outlined in red. Letter relating to the applicants gypsy status received on the 16th March 2016.

8.0 APPRAISAL:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000. However given the advanced progress of the Draft Local Plan (DLP) to formal adoption this can now also be given significant weight in the determination of this application. As the site lies within open countryside forming of a Special Landscape Area (SLA) the application is specifically subject to policies ENV28 and ENV34 of the adopted local plan and policy PW2 of the Staplehurst Neighbourhood Plan. 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."*

8.2 Policy SP17 of the submission version of the DLP (which is also a countryside protection policy) following the Interim findings of the local plan Inspector now states that proposals which accord with other policies in the plan and do not harm the countryside will be permitted. Policy PW2 of Staplehurst Neighbourhood Plan states that development outside development boundaries will be assessed according to its impacts on landscape features and other matters and where these impacts cannot be addressed, development will not be supported.

8.3 Policy DM16 of the DLP specifically relates to G&T development. This policy has also been amended by the local plan inspector and renumbered DM15. Criterion 2 has been amended to state that planning permission for G&T development will be granted if it would not result in significant harm to the to the landscape and rural

character of the area. The requirement remains that the development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

- 8.4 In the adopted plan none of the exceptions to the general policy of development restraint applied to this application which therefore represented 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 which is incapable of being acceptably mitigated. However given the increasing weight to be given to the DLP means policy DM16 (now DM15) is now a material consideration.
- 8.5 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 8.6 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) landscape and heritage (e) sustainability (f) impact on general and residential amenity (g) highway safety (h) wildlife considerations and (i) flooding.

PRINCIPLE OF DEVELOPMENT

- 8.7 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 8.8 Policy ENV28 relating to development in the countryside states, amongst other things, that;
- “Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.”*
- 8.9 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes G&T development and PW2 requires development to be able to acceptable in relation to its impact on a range of matters including landscape impact
- 8.10 Policy DM16 (now DM15) of the DLP specifically relating to G&T development now also represents a material consideration.
- 8.11 A key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.
- 8.12 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

Need for Gypsy Sites

- 8.13 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

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

- 8.14 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

Supply of Gypsy sites

- 8.15 Accommodation for G&T's is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).

- 8.16 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

86 Permanent non-personal mobiles
20 Permanent personal mobiles
3 Temporary non-personal mobiles
33 Temporary personal mobiles

- 8.17 Therefore a net total of 106 permanent pitches have been granted since 1st October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 8.18 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The DLP allocate specific sites sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

8.19 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. This asserts the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.

8.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply if the development is found to be unacceptable for other reasons.

Gypsy status

8.21 Since this application was submitted, the Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, with the planning definition of 'gypsies & travellers' being amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

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

8.22 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

8.23 In response to the above the applicant advised the following:

- Take wife and children to Appleby and Stowe for 2-3 weeks at a time where meet up with family and friends along with carrying out tree and roofing work.
- Need to have a permanent base to give children an education to improve their long term prospects as it is becoming more difficult to pursue a traveller lifestyle.
- Eldest son wants to be a farrier and two other sons attend Marden Primary school.
- Still intend to travel but to ensure the children maintain their education means that this will have to be more restricted.
- The applicant will continue travelling up and down the country dealing in horses, motor vehicles along with tree work.

8.24 The request for further information made in January 2017 did not appear to elicit any response and as such any judgement on the applicants as G&T status must be based on the information already submitted.

8.25 Regarding whether the occupants of the mobile home have lived a nomadic lifestyle and intend to continue living in such a manner it is evident the submitted information lacks detail. However it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in

the settled community. Given the family circumstances of the applicant it is considered highly likely that to provide a stable base for the children to enable them to attend school occupation of the mobile home would be for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties to provide a stable base for the children. As such is considered this meets the latest planning definition of gypsies and travellers.

- 8.26 In assessing this application it would have been useful to have times, dates and locations of all events and places of work the occupants of the mobile home attend. However it must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community.
- 8.27 In addition even if the applicants have permanent housing accommodation elsewhere this does not preclude them from resuming a G&T lifestyle nor does this affect their ongoing G&T status.
- 8.29 As such it is considered that based on the submitted details the applicant and other occupants of the site, on the balance of probability, are gypsies and travellers that have led and will continue to lead a nomadic lifestyle and therefore fall within the latest planning definition of gypsies and travellers.

VISUAL IMPACT

- 8.30 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure. No specific reference is made to landscape impact though this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP (which specifically states that provided proposals do not harm the character and appearance of an area they will be permitted). In addition policy DM16 states, amongst other things, that permission will be granted if a site is well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account. Policy PW2 of the SNP states the development should be able to address its impact on a range of matters including landscape features and visual setting.
- 8.31 It is generally accepted that mobile homes comprise visually intrusive development of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 8.32 In this case, the application site lies within an existing lawful G&T site i.e. Perfect Place. It is acknowledged the permanent planning permission granted for Perfect Place was subject to a condition restricting the number of mobile and touring caravans which is exceeded by the current application. However the JR decision did

not place weight on this condition in setting a limit on the number of pitches the site could accommodate. As such the existence of this condition does not constrain Members from dealing with this application on its merits as a new planning chapter in the sites history.

- 8.33 Regarding that part of the JR which was upheld, the judgement made clear that where G&T development is unauthorised (and notwithstanding the existence of applications seeking to regularise the development), the existence of such pitches is not material in assessing the character of an area. Assessment should therefore proceed on the basis that these sites are unoccupied and the land is in its former condition i.e. open countryside.
- 8.34 Members attention is drawn to the plan attached as **Appendix 1** showing G&T development in the locality. This shows 3 sites benefitting either from unconstrained permanent permissions or personal consents. However when these are excluded this still shows a number of sites in the locality (still including Blossom) which do not have the benefit of planning permission.
- 8.35 Members are reminded that two of these sites have since had planning permission refused with enforcement action pending. The current situation of Blossom is as explained earlier.
- 8.36 As such the Blossom site and other unauthorised development in the locality cannot be seen as having an impact on the character of the area. Consequently determining the visual impact of the development must be assessed on its own merits though the cumulative impacts of existing lawful development in the locality can also be taken into account.
- 8.37 Dealing first with the visual impact of the development as a discrete matter in its own right, the site is set back from Maplehurst Lane by a distance by just over 20 metres with access onto an existing track. The mobile home is tucked up against the southern site boundary. Notwithstanding its low profile, set back from Maplehurst Lane and that there are no public footpaths close to or abutting the site from which other public views of the site can be obtained, views are available through the access. As such the mobile home is partly visible and by implication, has some but limited impact on the character of the countryside and landscape quality of the SLA.
- 8.38 In making this point it should be noted the southern site boundary comprises deciduous tree cover. Though providing a dense screen in summer there is a gap through which long range views of a mobile home can be obtained from Maplehurst Barn to the south. In winter this screening effect would be lessened by leaf fall. However this needs to be placed in context. Firstly there is no right to a view as such while there is a separation distance in excess of 350 metres to the boundary with Maplehurst Barn. In these circumstances it is considered it would be difficult to make a substantive case of overriding visual harm based solely on loss of outlook to Maplehurst Barn.
- 8.39 Turning to the remaining elements of the proposal being the utility room and stable blocks, these are both small low profile buildings and given their small size and unobtrusive siting it is considered they will have little impact on the rural character or landscape quality of the area.

CUMULATIVE VISUAL IMPACTS

- 8.40 The JR judgement makes plain it is only the impact of lawful G&T sites that can be taken into account in assessing the cumulative impact of this development. The 3 lawful sites are shown on the plan attached as **Appendix 1**. Perfect Place is set well back from Maplehurst Lane and is considered to be relatively unobtrusive in its landscape impact. Another lawful site is hidden within woodland on the opposite side of Maplehurst Lane and is also unobtrusive in its impact as a consequence. The remaining lawful site is that fronting the eastern side of Maplehurst Lane to the north. Being a lawful site its visual impact now forms an acknowledged part of the local area..
- 8.41 Having regard to the impact of the development under consideration, though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage and notwithstanding its proximity to the lawful Perfect Place site, its visual impact is considered to be more localised and contained. As such it is considered it would be difficult in this case to sustain an objection based on cumulative visual impact.

LANDSCAPE AND HERITAGE CONSIDERATIONS:

- 8.42 It is contended the site lies within an historic landscape while there are nearby Listed Buildings whose character and setting will be adversely affected by retention of this G&T site which is also contrary to the provisions of the Staplehurst Neighbourhood Plan. Though the Staplehurst Neighbourhood Plan can now be given weight in the determination of this application it is silent on specific G&T and landscape issues.
- 8.43 The site is identified as falling within open countryside and within the Low Weald SLA in the adopted local plan. The DLP no longer makes specific reference to SLA's but policy SP17 of the DLP, as amended by the Local Plan Inspector, states amongst other things that the distinctive landscape character of the Low Weald as defined on the policies map will be conserved and enhanced as landscapes of local value and PW2 of the Neighbourhood plan seeks to conserve landscape features of the countryside.
- 8.44 The Maidstone Landscape Character Assessment 2012 identifies the site as falling within the Sherenden Wooded Hills. The key characteristics of this area are identified as being a low lying and gently undulating clay Low Weald Landscape with many ponds, ditches and watercourses. This includes large irregular blocks of ecologically important ancient woodland interspersed with pasture, orchards and arable fields along with species rich native hedgerow field boundaries with mature oaks trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed. Historic buildings are scattered throughout the landscape.
- 8.45 The Maidstone Landscape Capacity Study: Sensitivity Assessment – Jan 2015 assessed the Sherenden Wooded Hills as having high overall landscape sensitivity and therefore sensitive to change. It also concluded that development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with the existing. Other development supporting rural enterprises could be considered though extensive, large scale or visually intrusive development will be inappropriate.
- 8.46 It can only be reiterated that though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage its visual impact is considered to be relatively localised and contained. As such it is considered it would be difficult in this case to argue landscape harm similar to the refused applications fronting Maplehurst Lane.

- 8.47 Turning to the impact of the development on heritage assets with the area, the site does not lie within or close to any Conservation Area. The nearest listed building is Maplehurst sited some distance to the south of the site with views to the development screened by intervening trees and hedgerows.
- 8.48 As such it is not considered the development has any material impact on the character and setting of any existing acknowledged heritage assets within the locality.

SUSTAINABILITY

- 8.49 Gypsy and traveller sites are mainly located in the countryside and the development follows this pattern. Concerns have been raised that this site is unsustainable and is unacceptable on this ground. However the development lies within the site area of a lawful G&T site for which planning permission has already been granted. As such it appear perverse to adopt a different approach to this development.
- 8.50 In addition, compared to many G&T sites the site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. As such no objection is identified to the development on sustainability grounds.

GENERAL AND RESIDENTIAL AMENITY

- 8.51 Given the distant siting of the nearest houses it is considered it would be difficult to argue any ongoing significant detrimental impact to the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 8.52 Of wider concern is the view that the local community is being overly dominated by G&T development and the adverse impact this is having on local services. However given the small number of persons being accommodated in this development it is considered it would be problematic to seek to pursue such an argument in the circumstances of this application.

HIGHWAY SAFETY CONSIDERATIONS:

- 8.53 Objections to the development include concerns relating to highway safety and the free flow of traffic on the local road network arising not only from this development but also in connection with other G&T development that has taken place. The views of Kent Highways were therefore sought. It concluded that notwithstanding the traffic generated by lawful and unlawful G&T development in the locality it could not support an objection based on harm to the free flow of traffic and highway safety in the locality.
- 8.54 Consequently as it is only possible to take into account traffic generated by the lawful G&T sites in the locality and that traffic generated by these would be materially less than the quantum of lawful and unlawful G&T development, it not considered there are sustainable objections to retention of this site form G&T use based on harm to the free flow of traffic and highway safety in the locality.

WILDLIFE CONSIDERATIONS:

- 8.55 This is a retrospective application with the site occupied by the mobile home and existing buildings with the remainder laid out as hardstanding or grassed. It therefore clearly has little wildlife and habitat potential in its current form.

FLOODING:

- 8.56 The site lies in zone 1 and is therefore not subject to fluvial flooding. However concerns were raised that the site lies in an area at risk of surface water flooding and the EA was consulted as a consequence.
- 8.57 Its response was that the surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such it recommended the development be the subject of a Flood Risk Assessment (FRA).
- 8.58 It should be noted that as the site is not at risk from fluvial flooding there was no requirement to submit an FRA with the application. In addition the area of hardstanding has a ballast surface while the remainder of the site is grassed. Given these are both permeable the likelihood of water runoff is unlikely to be materially different from previous site conditions in the absence of changes to site levels.
- 8.59 As such it not considered the EA's request for an FRA is justified nor has evidence been submitted that retention of the development would make surface water runoff and flooding any worse or that the occupants of the development are placed at risk as a result of surface water flooding. KCC sustainable drainage have also been consulted. However in the absence of a negative response from this body it is not considered there is sufficient evidence to support objections to the development based on surface water flood risk.

OTHER MATTERS:

- 8.60 Concerns have been raised that retention of the development will result in continued pollution and harm to the local water environment. The applicants state that surface water drains into adjoining watercourses while waste water is dealt with by a septic tank. Both measures appear as appropriate responses having regard to the nature of the development. However should pollution be identified from this site the EA using its pollution prevention powers will be far better placed to take immediate action in such an eventuality.
- 8.61 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents a material consideration that should be taken into account in determining such applications. However guidance on how much weight this should be given is not clear while the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.
- 8.62 The report states the development represents a departure from the development plan normally requiring Press and Site notices. However given the small scale and enclosed nature and minimal wider impact of the development it is seen to comply with the relevant polices. As such it is not considered necessary to advertise it as a Departure.

9.0 CONCLUSIONS:

9.1 Though the Council is able to demonstrate a 5 year supply of G&T sites this does not mean, in the absence of demonstrable harm on other grounds, that the development is unacceptable in principle particularly as the emerging plan policy DM16(now DM15) states that planning permission will be granted if the development does not result in significant harm to the landscape and rural character of the area

9.2 The key conclusions are considered to be as follows:

- The occupants of the site fall within the revised definition of gypsies and travellers.
- The development is acceptable in its individual and cumulative visual impacts with other lawful G&T development in the locality while not materially contributing to dominating the local settled community.
- Has not resulted in any material loss of amenity to dwellings in the locality.
- Is acceptable in sustainability and wildlife terms.
- Is acceptable in its highway impacts.

9.3 As such in the absence of demonstrable harm to the character of the countryside and wider landscape it is considered the development is acceptable in its own right. In the circumstances it is recommended that permanent and unfettered consent to use the site for G&T accommodation is granted. Members are also advised that granting permanent planning permission here counts towards the overall supply of G&T sites in meeting the need identified in the GTAA.

10.0 RECOMMENDATION – GRANT planning permission subject to the following conditions

1. The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015.

Reason: To reflect the special circumstances of the application.

- (3) No more than one caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (4) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (5) No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

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

- (6) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (7) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (8) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

Caravan site licence:

It will be necessary to make an application for a Caravan Site Licence under the Caravan Sites and the Control of Development Act 1960 within 21 days of planning consent having been granted. Failure to do so could result in action by the Council under the Act as caravan sites cannot operate without a licence. The applicant is advised to contact the Environmental Enforcement Team on 01622 602202 in respect of a licence.

General waste provisions:

Provision should be made for the separate storage of recyclables from household waste. Advice on recycling can be obtained from the Environmental Services Manager. Clearance and burning of existing wood or rubbish must be carried without nuisance from smoke etc to nearby residential properties. Advice on minimising any potential nuisance is available from Environmental Enforcement/Protection.

The Council's approach to this application:

Planning Committee Report

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:

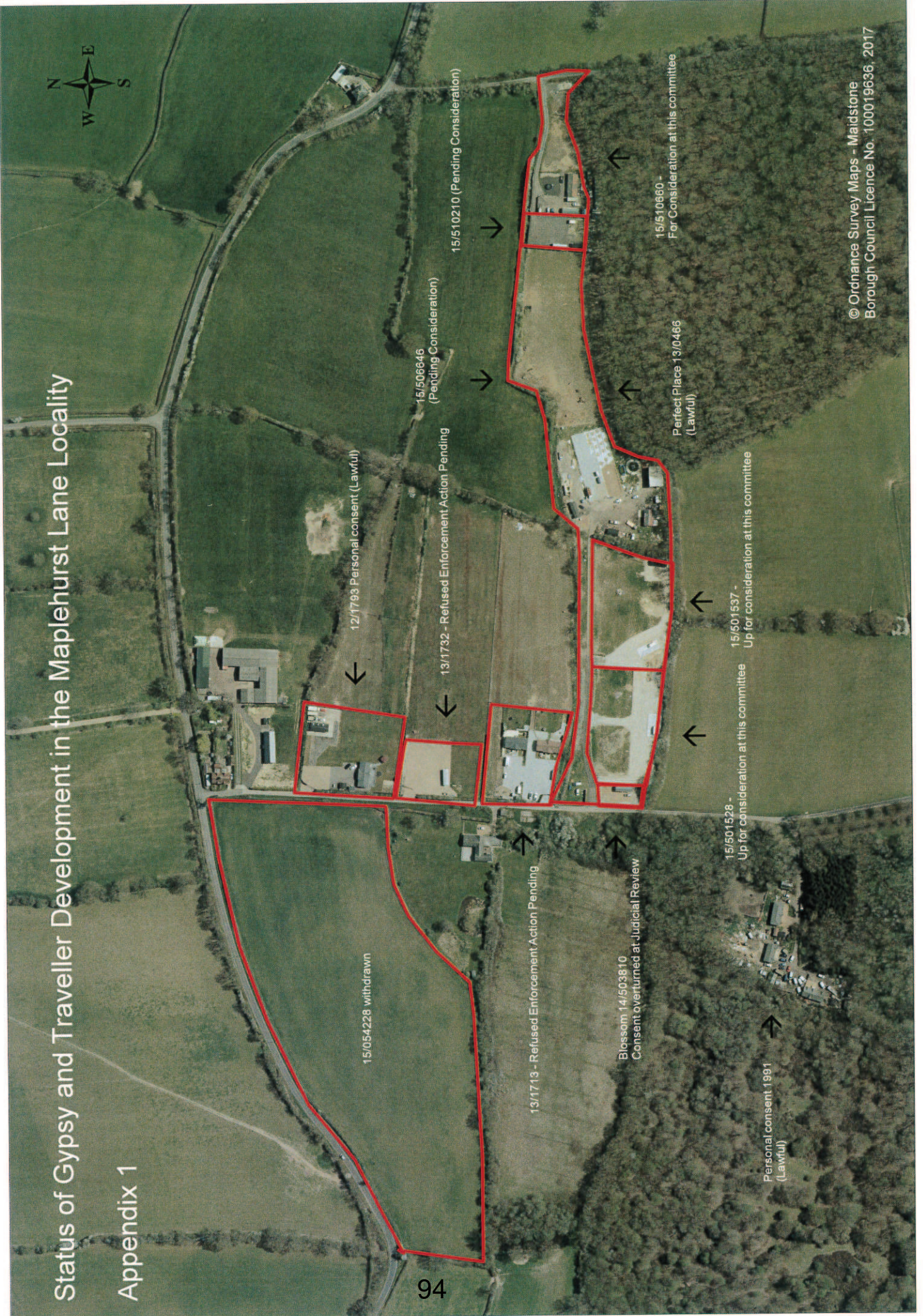
The application, following the receipt of additional information, was acceptable as submitted.

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.

Status of Gypsy and Traveller Development in the Maplehurst Lane Locality

Appendix 1



Appendix 2



Neutral Citation Number: [2016] EWHC 1436 (Admin)

Case No: CO/4214/2015

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17/06/2016

Before :

RHODRI PRICE LEWIS QC

(Sitting as a Deputy High Court Judge)

Between :

THE QUEEN
(on the application of XY)

Claimant

- and -

MAIDSTONE BOROUGH COUNCIL

Defendant

and

THOMAS SMITH

**Interested
Party**

**Mr Andrew Parkinson (instructed by Richard Buxton Environmental and Public Law
Solicitors) for the Claimant**

Mr Mark Beard (instructed by Sharpe Pritchard LLP) for the Defendant

The Interested Party did not appear

Hearing date: 17 May 2016

The Deputy Judge (Rhodri Price Lewis QC):

Introduction

1. Permission to bring this judicial review was given by Collins J on the 15th October 2015 when he also made an anonymity order in respect of the Claimant. The Claimant seeks judicial review of the decision by Maidstone Borough Council, the local planning authority for their area, to grant planning permission for the “change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed” on land named on the decision notice as Blossom, Maplehurst Lane, Frittenden Road, Staplehurst, Kent. That planning permission was granted on the 13th July 2015. The applicant for planning permission was Mr Thomas Smith, the Interested Party. Mr Smith has taken no part in these proceedings. The land in respect of which the planning permission was granted has been referred to as “the Blossom site” throughout these proceedings.
2. That site forms part of a wider area known as Perfect Place on which planning permission was granted in July 2014 for the retention of a mobile home, a touring caravan and a barn subject to a condition (“Condition 1”) that no more than one static residential caravan and one touring caravan should be stationed on the Perfect Place site at any one time.
3. The Blossom site lies at the southern end of Staplehurst village within a designated Special Landscape Area where it is the policy of the Local Plan that landscape considerations will normally take precedence over other matters. It is accessed off Maplehurst Lane.
4. It forms the western end of the land known as Perfect Place which itself extends from Maplehurst Lane towards the east over an area of 2.2 hectares. Planning permission had been granted on appeal in 2006 for the use of Perfect Place for the keeping of horses and the stationing of caravans and homes for residential purposes subject to a condition that the use was to be personal to Mr Perfect, his wife and children and that the use was to be for a limited period of three years. There was a further condition that no more than two caravans should be stationed on the site at any one time of which only one was to be a static caravan or mobile home. In 2009 the Council granted a further temporary planning permission. On the 1st July 2014 the Council granted the permanent planning permission referred to above.
5. To the east of the Blossom site and also within the Perfect Place site are two areas used for stationing mobile homes. Applications for planning permission for the retention of those mobile homes were made in respect of both those sites in February 2015. Those applications have not been determined.
6. To the east of the Perfect Place site and fronting onto Park Wood Lane is an area known as Parkwood Stables. Planning permission was granted on appeal in June 2013 for the use of that land for residential purposes involving the stationing of two mobile homes, three touring caravans and two utility blocks for two gypsy families. A condition requiring the submission and approval of schemes for the layout of the site has not been complied with and an application was made in 2015 to regularise the use despite the breach of that condition.

7. To the north of the Blossom site and also fronting Maplehurst Lane are four sites also used for stationing mobile homes. Applications for planning permission were made in respect of three of those sites in 2013 but those applications have also not been determined. No enforcement action has been taken in respect of any of those sites where mobile homes have been stationed. Personal planning permission was granted for stationing one caravan in respect of the most northerly of those sites in October 2012 but an application to increase the number of caravans to four was refused in July 2015 on the basis that there was no additional household being created and so there was no over-riding new need. The Claimant has identified seven breaches of planning control on land near the Blossom site at the time of the decision under challenge and indeed at the time of the hearing and the Defendant does not disagree with that analysis.
8. The Blossom application was reported to the Council's Planning Committee on 18th June 2015, with a recommendation for approval. The planning officer's report to the committee runs to 10 pages. It deals with the site description, the proposal before the committee and the relevant planning history. It identifies relevant government and local policies. It explains that no representations had been received from neighbours but that the Staplehurst Parish Council objected to the application. The officer then set out his appraisal which he began by reminding the members of the committee that section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. He then identified the key issues in relation to the proposal before them as "(a) principle (b) personal circumstances (c) impact on rural character and SLA (c) [sic] impact on the outlook and amenity of properties overlooking and abutting the site (d) highway and parking considerations and (e) sustainability." The Claimant accepts that those were the key issues before the committee. The officer then went on in section 7 of his report to deal with each of those key issues in turn and finally in section 8 expressed his conclusions as follows:
- The applicant's personal circumstances justify both the development that has taken place and the need to be at this location.
 - Given the acknowledged shortfall in meeting the demand for new gypsy and traveller sites granting planning permission here will make a material contribution in satisfying the identified need for such sites while helping to minimise the pressure for similar development in more sensitive locations.
 - No demonstrable harm to the rural character of the area and that of the SLA.
 - Will not result in harm to the outlook or amenity of any nearby dwellings.
 - Is acceptable in highway and parking terms
 - No objection on sustainability grounds."
9. The Planning Committee resolved to grant planning permission and on the 13th July 2015, the Council granted planning permission for the development.

10. The Claimant contends, in brief, that in granting planning permission the following errors of law occurred. Firstly, the members of the planning committee failed to have regard to the status in planning terms of the nearby gypsy sites which were either in unlawful use or in one case subject to a personal planning permission. Secondly, the committee failed to take into account that in granting planning permission in 2014 for the Perfect Place site the Council had concluded that more than one static caravan or touring caravan on that overall site would have an unacceptable visual impact. Thirdly, it is contended that the committee failed to take reasonable steps to obtain relevant information before concluding that Mr Smith was a gypsy. Fourthly, it is submitted that the committee failed to have regard to the evidence base for the emerging local plan as to the sustainability of the site. Fifthly, it is contended that the Council erred in failing to treat the current application and the applications then pending before it on the neighbouring sites as one project and therefore the application was a "Schedule 2 application" for the purposes of Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Council should have adopted a screening opinion under Regulation 5.
11. This is the order in which the grounds of challenge were dealt with in submissions even though that was not the order in which they were pleaded and I shall consider them in the order in which they were argued in this judgment.

Legal principles for reviewing decisions taken by local planning authorities

12. The general approach to challenges to decisions of local planning authorities to grant planning permission were recently summarised by Holgate J in *R (oao Nicholson) v Allerdale Borough Council* [2015] EWHC 2510 (Admin) and I gratefully adopt his summary, as follows:

"10. The grounds of challenge in this case primarily involve criticisms of the officer's report. The relevant principles upon which the High Court will approach a challenge of this nature have been set out in a number of cases and were summarised in *R (Luton Borough Council) v Central Bedfordshire Council* [2014] EWHC 4325 (Admin) at paragraphs 90 to 98.

11. For the purposes of the present application I would emphasise the following principles drawn from that summary:-

- (i) In the absence of contrary evidence, it is a reasonable inference that members of the planning committee follow the reasoning of the officer's report, particularly where a recommendation is accepted;
- (ii) The officer's report must be read as a whole and fairly, without being subjected to the kind of examination which may be applied to the interpretation of a statute or a contract;
- (iii) Whereas the issue of whether a consideration is relevant is a matter of law, the weight to be given to a material consideration is a matter of planning

judgment, which is a matter for the planning committee, not the court;

(iv) "An application for judicial review based on criticisms of the planning officer's report will not normally begin to merit consideration unless the overall effect of the report significantly misleads the committee about material matters which thereafter are left uncorrected at the meeting of the planning committee before the relevant decision is taken" per Lord Justice Judge (as he then was) in *Samuel Smith Old Brewery (Tadcaster) v Selby District Council* (18 April 1997)."

(v) "In construing reports, it has to be borne in mind that they are addressed to a "knowledgeable readership", including council members "who, by virtue of that membership, may be expected to have a substantial local and background knowledge."

(*R v Mendip District Council ex parte Fabre* (2000) 80 P CR 500 per Sullivan J, as he then was).

(vi) "*The purpose of an officer's report is not to decide the issue, but to inform the members of the relevant considerations relating to the application.* It is not addressed to the world at large, but to council members who, by virtue of that membership, may be expected to have substantial local and background knowledge. There would be no point in a planning officer's report setting out in great detail background material, for example, in respect of local topography, development plan policies or matters of planning history if the members were only too familiar with that material. *Part of a planning officer's expert function in reporting to the committee must be to make an assessment of how much information needs to be included in his or her report in order to avoid burdening a busy committee with excessive and unnecessary detail.*" (emphasis added)

(Sullivan J in the *Ex parte Fabre* case at page 509)

(vii) Likewise in *Morge v Hampshire County Council* [2011] UKSC 2 at paragraph 36, Baroness Hale of Richmond said:

"Democratically elected bodies go about their decision-making in a different way from courts. They have professional advisers who investigate and report to them. Those reports obviously have to be clear and full enough to enable them to understand the issues and make up their minds within the limits that the law allows them. But the courts should not impose

too demanding a standard upon such reports, for otherwise their whole purpose would be defeated..."

12. ...the observations of Sullivan J (as he then was) in *R (Newsmith Stainless Ltd) v Secretary of State* [2001] EWHC Admin 74 (at paragraphs 6 to 8) on perversity challenges to the decisions of planning Inspectors are also applicable where challenges of that nature are made to the decisions of a local authority.
13. Thus, an application for judicial review is not an opportunity for a review of the planning merits of the Council's decision. Although an allegation that such a decision was perverse, or irrational, lies within the scope of proceedings under CPR Part 54, "the Court must be astute to ensure that such challenges are not used as a cloak for a rerun of the arguments on the planning merits" (*Newsmith* at paragraph 6). In any case where an expert tribunal is the fact finding body, as in the case of a planning committee (see Cranston J in *R (Bishops Stortford Federation) v East Herts D.C.* [2014] PTSR 1035 at paragraph 40), the threshold for *Wednesbury* unreasonableness is a difficult obstacle for a Claimant to surmount, which is greatly increased in most planning cases by the need for the decision-maker to determine not simply questions of fact, but a series of planning judgments. Since a significant element of judgment is involved, there will usually be scope for a fairly broad range of possible views, none of which could be categorised as unreasonable (*Newsmith* at paragraph 7). Moreover, the decision may also be based upon a site inspection, which may be of critical importance. Against this background, a Claimant alleging that a decision-maker has reached a *Wednesbury* unreasonable conclusion on matters of planning judgment "faces a particularly daunting task" (*Newsmith* at paragraph 8).
14. On the other hand, as Mr. Dan Kolinsky QC (who appeared on behalf of the Claimant) pointed out, irrationality challenges are not confined to the relatively rare example of a "decision which simply defies comprehension", but also include a decision which proceeds from flawed logic (relying upon *R v North and East Devon Health Authority ex parte Coughlan* [2001] QB 213, 244 at paragraph 65)."
13. Further, section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with an application for planning permission the local planning authority "shall have regard to (a) the provisions of the development plan, so far as material to the application ... and (c) any other material consideration." In *Tesco Stores v Secretary of State for the Environment* [1995] 1 WLR 759 it was held that "material" means "relevant". A number of the grounds of challenge here claim that the planning committee failed to have regard to various material considerations. The relevant test is set out by Glidewell LJ in *Bolton Metropolitan Borough Council v Secretary of State for the Environment* (1990) 61 P&CR 343 at 352-353, as applied by the Court of

Appeal in the context of judicial review against the grant of planning permission by local planning authorities in *R(on the application of Watson) v London Borough of Richmond upon Thames* [2013] EWCA Civ 513 at [26]:

- “1. The expressions used in the authorities that the decision maker has failed to take into account a matter which is relevant ... or that he has failed to take into consideration matters which he ought to take into account ... have the same meaning.
 2. The decision-maker ought to take into account a matter which might cause him to reach a different conclusion to that which he would reach if he did not take it into account. Such a matter is relevant to his decision making process. By the verb ‘might’, I mean where there is a real possibility that he would reach a different conclusion if he did take that consideration into account.
...
...
4. ...[T]here is clearly a distinction between matters which a decision maker is obliged by statute to take into account and those where the obligation to take into account is to be implied from the nature of the decision and of the matter in question
 5. If the validity of the decision is challenged on the ground that the decision maker failed to take into account a matter in the second category, it is for the judge to decide whether it was a matter which the decision maker should have taken into account.
 6. If the judge concludes that the matter was ‘fundamental to the decision’, or that it is clear that there is a real possibility that the consideration of the matter would have made a difference to the decision, he is thus enabled to hold that the decision was not validly made. But if the judge is uncertain whether the matter would have had this effect or was of such importance in the decision-making process, then he does not have before him the material necessary for him to conclude that the decision was invalid.
 7. ...Even if the judge has concluded that he could hold that the decision is invalid, in exceptional circumstances he is entitled nevertheless, in the exercise of his discretion, not to grant any relief.”
14. Therefore, a decision may be quashed for failure to have regard to a material consideration where it is clear that there is a real possibility that consideration of the matter would have made a difference to the decision.

Ground 1:

15. **The Claimant's Submissions:** The Claimant submits that the Council through its committee erred in failing to have regard to the planning status of the surrounding gypsy sites when considering the prevailing character of the area and so failed to have regard to a material consideration. The Claimant points out that of the gypsy sites to the north only one had the benefit of planning permission and that was a personal permission. When an application was made for further development on that site it was refused by the Council. The Claimant submits that if the existing character of the area is to be used to justify a finding that the application would not have a detrimental impact it was material to consider that the existing development is either unlawful or granted subject to a personal condition and therefore inherently temporary. It is submitted that with the unlawful sites it has never been concluded that their development is acceptable and with the temporary site there is a real possibility that it would revert to agriculture. So a permanent planning permission is being granted and justified here on the basis of circumstances that were inherently temporary. It is submitted that if the members had been told of the status of these other sites they might very well have granted a temporary planning permission in order to see what happens on those other sites.
16. The officer dealt with the impact on the rural character of the area and the SLA at paragraphs 7.21 to 7.27 of the analysis section of his report in the following terms:

“7.21 Where a gypsy and traveller site is located in a rural area this should normally fall outside an AONB, Green Belt or area liable to flooding. The application site does not fall in an area the subject of these specific restrictions but it is located in countryside falling within an SLA.

7.22 It is therefore subject to provisions of policies ENV28 and ENV34 of the adopted Local Plan. Policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes clear that exceptions will be permitted if justified by other policies contained in the plan. In SLA's landscape considerations will normally take precedence over other matters.

7.23 It is generally accepted that mobile homes comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.

7.24 A key consideration here is that the application site is located on land already having planning permission for a gypsy and traveller site. Furthermore, the character of the area in the vicinity of the site is already made up of a number of gypsy and traveller sites fronting the track to the

north. Although these are mainly hidden from direct view from the track, glimpse views are nevertheless available to them through gates and breaks in boundary screening.

7.25 Development that has already taken place on the application site continues this pattern with 5 bar galvanised steel gates providing views into the site with the site perimeter being defined by close boarded fencing set close to the back edge of the track. As such the site in its current condition cannot be considered as being screened by existing permanent features though the intention is to plant a native species hedgerow in front of the fence to screen both it and the caravan site behind from view.

7.26 Given (a) the prevailing character of the area, already significantly defined by the prevalence of gypsy and traveller development in the immediate locality and (b) this site falls within in [sic] area already benefitting from planning permission for such purposes, it is considered it would be difficult to make a sustainable case of further material harm to the character of the area. Regarding revisions to the amenity block, what has already been erected on the site is both smaller and more unobtrusively sited than that originally proposed and is considered proportionate in providing essential ancillary facilities for the site occupants.

7.27 As such, subject to a condition securing the proposed landscaping, it is considered that the visual impact on the rural character of the area and wider SLA is acceptable.”

17. It is clear and indeed it is not disputed by the Defendant that the officer's report did not expressly address the planning status of the land to the north. The Defendant does not suggest that the matter was addressed in the discussion at the meeting and it is not said that members of the committee otherwise knew of those matters. There is no witness statement from any member of the committee.
18. **The Defendant's Submissions:** The Defendant submits that it is a matter of the officer's judgment as to what goes in to his report and that he was under no obligation to refer to the fact that the sites to the north do not have the benefit of planning permission. It is submitted that it could not be said that members were significantly misled by the absence of such information. The Defendant draws attention to three sites which do have the benefit of planning permission as traveller sites, namely the site to the north with temporary planning permission, the Perfect Place site and a site known as Little Oak which has a temporary planning permission. It was submitted that even the sites with temporary permission could continue in that use for a very long time and in particular it was pointed out that the temporary planning permission to the north enures for the benefit of the family's children who could remain for a substantial period. It was further submitted that unauthorised development can affect the character of an area and as any enforcement action would be likely to be resisted there was no real prospect of the character of the area changing in the foreseeable future. It was submitted that the fact that there were applications for planning permission to regularise the unlawful uses and that the Council has no present

intention to take enforcement action meant that the character of the area had been established for the foreseeable future by these developments. Overall it was submitted that the Claimant's approach to the officer's report was unduly legalistic.

Discussion:

19. I do not agree that the Claimant adopted the wrong approach to the officer's report under this ground. The complaint is that the report failed to mention factual matters which were material to the members' decision and that if they had been mentioned there is a real possibility that their decision might have been different. It is clear that the officer did rely on the "gypsy and traveller sites fronting the track to the north" as "mak[ing] up the character of the area": see paragraph 7.24 of the report. The "prevailing character of the area" was said to be defined by these developments: see paragraph 7.26. This was one of the two matters relied upon as resulting in it being "difficult to make a sustainable case of further material harm to the character of the area" from the development for which planning permission was being sought: see paragraph 7.26 again. In my judgment it was material to this assessment that the sites to the north were either in unlawful use and therefore susceptible to enforcement action or had the benefit of only temporary permission. The character of the area could therefore change if the Council took action or if the temporary permission expired. This is not to criticise the officer's report in an inappropriately legalistic way but simply to point out that relevant information was not put before the members at all and that information might have caused them to reach a different decision. The Defendant did not suggest that the members knew of the planning status of these other sites fronting Maplehurst Lane from their local knowledge or from having been members of the committee on previous occasions. There was certainly no evidence to that effect.
20. The Little Oak site referred to by the Defendant does not front onto Maplehurst Lane and so it is not one of the sites being referred to by the officer and relied upon as affecting the character of the area. The Perfect Place caravans are towards the centre of that site in accordance with the plans approved by the Council and again was not being relied upon by the officer as affecting the character of the area as seen from Maplehurst Lane. Further, whilst the site to the north with temporary planning permission could continue lawfully in use by the children of the family the members were not informed of the temporary nature of the permission at all so were not in a position to form their judgment as to how the planning status of the site affected its impact on the character of the area. In my judgment the possibility of enforcement action being taken was a matter that the members of the committee should have been able to consider for themselves if they had the information before them as to the unlawful nature of some of the existing developments. The applications for retrospective planning permission for the unlawful developments were submitted some years ago and there is no officer's report in relation to any of them and so not even a professional officer's view has been formed as to whether those applications should be approved. It is not possible to conclude in those circumstances that planning permission is likely to be granted. In any event, this is a matter that the members of the committee should have been able to consider: they were not able to because they did not have the relevant information before them in the officer's report.
21. In my judgment the members of the committee were significantly misled about material matters by this report in that they were invited to make a decision to grant

planning permission in reliance on matters that were potentially temporary in nature that went to a key issue in the decision, namely, the extent of harm to the character of the area by the development for which planning permission was being sought.

22. The claim therefore succeeds on this ground.

Ground 2:

23. **The Claimant's Submissions:** The Claimant submits that the Committee failed to have regard to the fact that the Perfect Place planning permission had a condition, Condition 1, attached to it which provided that no more than one static residential caravan and one touring caravan were to be stationed on the land at any one time. The reason for the condition was "to accord with the terms of the application and in the interest of visual amenity" and so in granting that planning permission the Council had reached a judgment that having more than one static or touring caravan on the Perfect Place site would have an unacceptable impact on visual amenity. The Blossom site is part of and within the Perfect Place site and so to grant planning permission for more caravans was inconsistent with that earlier determination. No reasons have been given for departing from that earlier judgment and no regard has been had to the importance of consistency in decision-making, as explained by Lindblom J, as he then was, in *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government* [2014] EWHC 754 (Admin) at [19 (7)].
24. In his report the officer had advised the members that "a key consideration here is that the application site is located on land already having planning permission for a gypsy and traveller site" (see paragraph 7.24 quoted above) and that "given (a) the prevailing character of the area, already significantly defined by the prevalence of gypsy and traveller development in the immediate locality and (b) this site falls within an area already benefitting from planning permission for such purposes, it is considered that it would be difficult to make a sustainable case of further material harm to the character of the area" (see paragraph 7.26). It is submitted that in those circumstances the officer should have advised members of Condition 1 attached to the Perfect Place permission and the reason for it so that they could take it into account in deciding whether granting planning permission for more caravans would have an adverse effect on the character and appearance of the area.
25. **The Defendant's submissions:** Mr Beard on behalf of the Defendant Council submits that in attaching Condition 1 to the Perfect Place permission the Council did not decide that a greater quantum of development than the one static residential caravan home and the one touring caravan permitted would have an unacceptable impact on visual amenity. The condition was attached to ensure that the grant of planning permission accorded with the terms of the application and the merits of granting planning permission for a more intensive form of traveller site development was not before the committee who considered the application in 2014. So it is submitted that a reasonable reader would not assume that the Council imposed Condition 1 on the 2014 permission having assessed the planning merits of a different and more intensive form of traveller site development but rather to explain that the council wished to retain control over the future development of the site and identified the interest of acknowledged planning importance engaged, namely the protection of visual amenity. By contrast the members of the committee who granted the planning

permission under challenge knew full well that they were considering an application that if granted would represent an “intensification” of the existing lawful traveller site.

Discussion:

26. It is accepted by the Defendant that the officer’s report did not refer expressly to Condition 1 to the planning permission granted on the 1st July 2014 nor therefore to the reason for attaching the Condition. That grant of planning permission was made by an officer of the Council under delegated powers and so it is not likely that members knew of the Condition from having been members of earlier committees.
27. Nevertheless, in my judgment the members of the committee knew from the officer’s report that the impact on the rural character of the area and on the Special Landscape Area was a key issue before them: see paragraph 7.02. They had the benefit of a site visit. They knew that the application site before them “is located on land already having planning permission for a gypsy and traveller site”: paragraph 7.24. The issue is whether they were significantly misled about a material matter by the report failing to inform them that an earlier decision had been made that only one static residential caravan and one touring caravan should be stationed on the land which included the area of the application site and that that was done “in the interests of visual amenity”. In my judgment the failure to inform the committee of that Condition and of the reason for it does not cross over the line into significantly misleading the committee on a material matter. They knew the importance attached to the Special Landscape Area and that, in that area, landscape considerations will normally take precedence over other matters: see the officer’s report at paragraph 7.22. They could see from their site visit the effect on the landscape of the caravans on the Perfect Place site and on the application site. They did not need to know in order to arrive at a lawful judgment on these matters that the officer who had granted the Perfect Place permission had decided that a condition restricting the number of caravans was necessary in the interest of visual amenity. In my judgment they were not reaching an inconsistent view. They were simply forming their view that the caravans they saw on their site visit did not have such an effect on visual amenity so as to justify refusal of planning permission.
28. This ground of challenge therefore fails.

Ground 3:

29. **The Claimant’s Submissions:** The Claimant submits that the committee failed to take reasonable steps to obtain relevant information before concluding that the applicant was a gypsy. The applicant’s status was central to the issues before the committee. A “key issue” identified in the officer’s report was characterised as “personal circumstances” (see paragraph 7.02 (b)) and the need for more gypsy and traveller sites was seen as a “key consideration”: paragraph 7.04. The officer’s report advised the members: “The status of the applicant as a gypsy is accepted as both he and his family comply with the definition of gypsies set out in Government policy”: paragraph 7.15.
30. At the date of the decision the definition of gypsies and travellers was set out in Annex 1 of the Government’s “Planning policy for traveller sites (2012)”, namely:

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

31. The test whether a person has a nomadic habit of life was set out by the Court of Appeal in *R v South Hams District Council ex parte Gibb* [1995] Q.B. 158. In summary, a person must be shown to be, or have been, travelling from place to place (even with a permanent residence) for an economic purpose (i.e. in order to find work). Therefore the relevant question for the court under this ground is whether a reasonable planning authority could conclude that it had sufficient information to show that the applicant had ever travelled from place to place for an economic purpose. The information set out in the officer’s report at paragraph 2.05 did not address whether Mr Smith had ever travelled from place to place for an economic purpose. Indeed it recorded that the Applicant and his wife have lived in the Maidstone area all their lives and wish to stay in the area. There was no evidence at all before the committee as to whether Mr Smith met a key part of the test.
32. **The Defendant’s Submissions:** The Defendant submits that again this ground relies on an unrealistic, legalistic and unduly prescriptive approach to an officer’s report. The level of detail in such reports is for officers to decide. The members and officers of this borough have extensive experience of cases involving traveller sites and of the shortfall in the provision of such sites. It is difficult for a council to challenge the status of a gypsy or traveller and if asked the applicant could easily assert that he had travelled from place to place for an economic purpose either as a child with his family or once he began working or that he intended to do so in the future. The Council took account of the circumstances of the development the subject of the application which are typical of traveller site developments in England, namely where the applicant and his family occupied a mobile home on an existing traveller site, which itself was occupied by Mr Perfect whose gypsy status was well established and that the application typically sought retrospective permission for the retention of a mobile home and its residential use with the stationing of a touring caravan and the use of an existing building as an amenity block.

Discussion:

33. The question to be asked by the court is whether the inquiry made by the planning authority was so inadequate that no reasonable planning authority could suppose that it had sufficient material available upon which to make its decision to grant planning permission and impose conditions: see *R (on the application of Hayes) v Wychavon District Council* [2014] EWHC 1987 (Admin). The amount of detail to be included in a report to a committee is a matter for the officer. The officer referred to the correct definition of gypsy status in his report at paragraph 7.14 and his judgment was that “the status of the applicant as a gypsy is accepted”. In a borough where there had already been a number of applications for planning permission for gypsy sites, not least in the immediate area of this application site, it is unreasonable to assume that the officer putting that view before the committee was unaware of the meaning of the phrase “a nomadic habit of life”. Furthermore, the surrounding circumstances all tended to support the view that the applicant is a gypsy. In my judgment the

committee were entitled in these circumstances to rely on the view expressed to them by their professional officer and that in those circumstances they had sufficient material before them to reach their judgment that the applicant was a gypsy.

Ground 4:

34. **The Claimant's Submissions:** The Claimant submits that the Council erred in law in failing to have regard to the evidence base for the emerging Local Plan, which had ruled out allocating the Perfect Place site (and therefore this application site) for development as a gypsy and traveller site. The Sustainability Appraisal for the emerging plan had assessed the Perfect Place site as "not in easy access to a cycle route, train station, bus stop, primary or secondary school, post office, GP service or the Maidstone Urban Area." The Appraisal concluded: "For the sites which were not selected for allocation the harm resulting from the development was not considered to be outweighed by the scale of the need for additional pitches."

35. By contrast the officer's report on the application for planning permission had said this under the heading "Sustainability":

"Regarding whether the site is sustainably located i.e. well placed in relation to public transport and local services, compared to many gypsy and traveller sites this site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. Given this and the presence of adjoining gypsy and traveller sites it is not considered the proposal fails on sustainability grounds."

36. It is accepted by the Defendant that the committee considering the application did not have this material from the Sustainability Appraisal drawn to their attention. There is a real possibility they would have reached a different decision if this material had been put before them because the need for gypsy sites was seen as justifying this site in the countryside and the committee might well have reached a different view on that issue if they were aware that more sustainable sites could meet the need.

37. The Claimant acknowledges that the Sustainability Appraisal was assessing the sustainability of reasonable alternatives in order to inform the plan making process and so to inform the allocations of land to meet local needs over the plan period whereas the committee considering the application had to determine primarily whether the proposal was in accordance with the development plan and in that exercise no comparative assessment was necessary. However, the officer's report did compare the application site with other gypsy and traveller sites in reaching its conclusions and the Sustainability Appraisal was not just a comparative exercise as it did provide assessments of individual sites.

38. Therefore the Claimant submits that this evidence base for the emerging Local Plan was material to the question of the sustainability of the application site and the Council erred in not taking it into account in deciding to grant planning permission.

39. **The Defendant's Submissions:** The Defendant submits that the Claimant is wrong to assert that the conclusion in the officer's report that the site occupies a relatively sustainable location compared to many gypsy and traveller sites is contrary to the findings of the Sustainability Appraisal because that appraisal itself concludes that "Most of the gypsy and Traveller site options (including allocated sites) perform very

poorly in terms of access to local services and public transport.” An appeal decision in relation to the adjoining Parkwood Stables site in 2013 had not seen sustainability as a reason for dismissing that appeal. Planning permission had already been granted in relation to the Perfect Place site so it would be perverse to refuse permission on the Blossom site on the basis of sustainability. The Committee were not significantly misled by the omission of express references to the evidence base of the emerging Local Plan. In any event, given the poor sustainability of most of the gypsy and traveller sites, sustainability whether comparative or individually was not going to be decisive in the planning balance so the committee would reach the same decision to grant planning permission even if the Sustainability Appraisal was expressly put before them.

Discussion:

40. In my judgment given that permanent planning permission had been granted in 2014 on the Perfect Place site which included the application site and given that the Sustainability Appraisal had itself recognised that most of the gypsy and traveller sites in the borough were poorly located in relation to transport and services, it cannot be said that the committee were significantly misled on the issue of sustainability by the absence of any reference to the evidence base for the emerging local plan. Furthermore these local members would have been well aware of local transport provision and where local facilities were to be found. They were well placed to decide whether the application site was in a sufficiently sustainable location to justify the grant of planning permission.
41. This ground therefore fails.

Ground 5:

42. **The Claimant’s Submissions:** Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (“the EIA Regulations”) provides as follows:

“7. Applications which appear to require screening opinion

Where it appears to the relevant planning authority that—

- (a) an application which is before them for determination is a Schedule 1 application or a Schedule 2 application; and*
- (b) the development in question has not been the subject of a screening opinion or screening direction; and*
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,*

paragraphs (4) and (5) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).”

43. Paragraph (5) of regulation 5 provides:

“An authority shall adopt a screening opinion within 3 weeks beginning with the date of receipt of a request made pursuant to paragraph (1) or such longer period as may be agreed in writing with the person making the request.”

44. In deciding what is the “application” before the planning authority for the purposes of reg. 7(a) of the EIA Regulations, the starting point is to determine the relevant “project” as defined in the Environmental Impact Assessment Directive 2011/92/EU (“the EIA Directive”): see decision of the Court of Appeal in *Burridge v Breckland District Council* [2013] EWCA Civ 228 at para. 45.
45. At the screening stage, a project should not be considered in isolation if in reality it is properly to be regarded as an integral part of an inevitably more substantial development: *R v Swale BC ex parte RSPB* [1991] JBL 39. The underlying principles of European case law and the aims of the EIA Directive indicate that “project” in this context must be interpreted broadly.
46. The Council has before it a number of pending applications for gypsy developments relating to the land immediately surrounding the Site. The Claimant contends that for the purposes of the EIA Directive, these applications all form one project. In particular the following matters are relied upon: (i) the applications are all for the same development (ii) the applications are all made by members of the local gypsy community (iii) a number of the applications arise from the sub-division of the Perfect Place site (iv) the Council is relying on the cumulative effect of the developments (now before it as retrospective applications) to claim that the character of the area has changed (see Ground One above).
47. It is submitted that, considering this application together with the other pending applications for the same “project”, the application before the Council was a “Schedule 2 application” and therefore the Council should have issued a screening opinion. This is because the cumulative area of all of the pending applications relating to this area is above 5 hectares: see Schedule 2, Column 1, para. 10(b) of the EIA Regulations read together with Column 2.
48. The Claimant therefore submits that the grant of planning permission is unlawful, as the Council has:
 - i) Failed to consider whether the development was EIA Development and therefore whether it was development to which regulation 3 of the EIA Regulations applied (as in *R. (on the application of Birch) v Barnsley MBC* [2010] EWHC 416 (Admin) where planning permission was quashed for failure to consider whether development was Schedule 2 development – see para. 53).
 - ii) Granted planning permission for Schedule 2 development without carrying out a screening opinion, and therefore in the absence of a written “determination” available to the public under Article 4(2) of Directive 2011/92/EU that EIA was not required (as in *R (Aldergate Projects Ltd) v Nottinghamshire County Council* [2008] EWHC 2881 (Admin), where planning permission was quashed for failure to carry out a written screening opinion – see paragraph 36). The planning permission should be quashed. The Claimant has not

received the “substance” of its rights under the EIA Directive: see the test put by Richards LJ in *Ashdown Forest Economic Development LLP v Wealden District Council* [2015] EWCA Civ 681 at §52. Alternatively, it is not highly likely that the outcome would not have been substantially different had the application been screened: section 31(2A) Senior Courts Act 1981.

49. **The Defendant’s Submissions:** It was for the local planning authority to determine whether this application was for planning permission for EIA development and it was not because it did not form part of any larger “project”. The development for which planning permission was sought was not an integral part of more substantial development. There was no one project under single control. The other applications all related to minor developments which neither individually nor cumulatively were likely to have a significant effect on the environment. So the Claimant has not established that the “substance” of the rights guaranteed by the EIA Directive has been denied.
50. **Discussion:** I consider that the Council acted reasonably in determining that this application was not a Schedule 2 application. If it is for the court to determine that matter, I too would decide that the application before the Council was not a Schedule 2 application. This application did not in any meaningful way form part of one project with the other pending applications on the nearby sites. It was not an integral part of the development on those other sites. Each of those sites was under the control of the individual occupier and applicant. It would be wholly unreasonable to treat them as one project because each of the applicants was a member of the gypsy community. The sites to the north were not part of the Perfect Place site. And to look at a number of individual sites cumulatively in order to determine the nature of the local rural character is not to treat all of those sites as one project. Looked at individually, as it should be, the application site did not exceed any relevant threshold for Schedule 2 development set out in the 2011 Regulations.
51. This ground also fails.

Discretion:

52. This claim therefore succeeds under Ground 1 alone. I do not exercise my discretion not to quash the planning permission because in my judgment there is a real possibility that if the members of the committee had been made aware of the unlawful nature of three of the sites fronting onto Maplehurst Lane and that the fourth site had a personal planning permission they would have reached a different decision. In particular they might have decided to grant a temporary planning permission in order to see what decisions were taken on the pending applications in respect of the sites in unlawful use. So in terms of section 31 (2A) of the Senior Courts Act 1981 I am not satisfied that it would be highly likely that the outcome would not have been substantially different if the committee members had been provided with the relevant information about the status of the nearby sites.

Conclusion:

53. The decision to grant planning permission must be quashed on that ground.
54. I invite the parties to agree the relevant order on that basis.

REPORT SUMMARY

REFERENCE NO - 15/501537/FULL		
APPLICATION PROPOSAL Change of use of land for the permanent stationing of a mobile home, utility room, stable block and touring caravan for gypsy family. (Part retrospective)		
ADDRESS Maplehurst Lane Frittenden Road Staplehurst Kent		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development, subject to imposition of the recommended conditions , is considered to comply with the policies of the Development Plan (Maidstone Borough Wide Local Plan 2000) and there are no overriding material planning considerations justifying a refusal of planning permission.		
REASON FOR REFERRAL TO COMMITTEE RECOMMENDATION CONTRARY TO THE VIEWS OF STAPLEHURST PARISH COUNCIL		
WARD Staplehurst Ward	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Lena Collins AGENT
DECISION DUE DATE 18/05/15	PUBLICITY EXPIRY DATE 18/05/15	OFFICER SITE VISIT DATE 27/04/2017

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.1 The application site is broadly rectangular in shape with a west to east orientation. Existing gypsy and traveller development abuts the site to the east and west and the planning status of these (and other sites) are shown on the plan attached as **APPENDIX 1** to this report. The site is set back over 100 metres from Maplehurst Lane. There is an existing mobile home in the south west corner of the plot. The wider plot is mainly made up of an area of open paddock with hardstandings.
- 1.2 Site access is gained via a narrow trackway onto Maplehurst Lane
- 1.3 In a wider context the site is located in open countryside identified as a Special Landscape Area (SLA) in the adopted local plan.

2.0 PROPOSAL

- 2.1 This is partly retrospective application with planning permission sought to retain an existing mobile home to be used for gypsy and traveller accommodation by the applicant and her family. Planning permission is also sought to erect a utility room

having a footprint 4.5x7.5 metres, an eaves height of 2.6 metres and a ridge height of 3.3 metres and a stable block having a footprint of 10.9x3.6 metres, an eaves height of 2.2 metres and a ridge height of 2.7 metres.

- 2.2 Surface water will drain into adjoining watercourses while waste water will be dealt with by septic tank.

Response to request for clarification of gypsy status:

- 2.3 Revised Government guidance coming into force in August 2015 makes clear that persons claiming gypsy and traveller status must provide evidence to show they intend to carry on a nomadic /traveller lifestyle. The definition of a nomadic lifestyle requires adult occupants to move from place to place in the pursuit of work. The following has been submitted to in connection with the applicant's gypsy status:

- Would like to settle permanently at Staplehurst to continue family as it is too hard to keep travelling around with young children being Maisie Collins (10 years) and Selena Collins (6 months)
- Wants running water and central heating.
- Will continue going to gypsy gatherings such as Appleby, Stow, Epsom and Kenilworth to maintain the gypsy lifestyle, traditions and social connections while undertaking business activities where opportunities present themselves.
- Travel to fairs and horse fairs throughout the year to do business and socialise.
- Trade in horses and try to find work in the surrounding areas including garden and tree work.
- At fairs carry out flower arranging while selling articles for babies.
- Absences can be up to 3 months or more.
- Daughter now settled in local school, have permanent doctors while have another baby daughter.
- Want a stable base for the family but once children are older will continue to travel.

- 2.4 In January 2017 further information was sought on the applicants circumstances seeking detailed information on how they (a) comply with the revised G&T definition in pursuing a nomadic lifestyle, (b) details of any health conditions which may preclude a nomadic lifestyle and (c) details of any children and education history.

- 2.5 No response appears to have been received to the above request and the application will therefore be determined on the basis of the information already submitted.

3.0 RELEVANT PLANNING HISTORY

- 3.1 There are existing gypsy and traveller sites abutting and close to the application site. These are shown on the location plan attached as **APPENDIX 1** along with their current planning status.

- 3.2 The two unauthorised sites fronting the eastern side of Maplehurst Lane to the north of the access serving this application site and subject to the planning applications refs: MA/13/1713 and 13/1732 have now both been refused. The grounds for refusal were (a) being visually intrusive development on their own and in combination with existing lawful G&T development fronting Maplehurst Lane harmful to the rural and landscape quality of the area and (b) the personal circumstances of the applicants insufficient to weigh against the harm identified. Enforcement notices requiring the use of the land to cease will be served shortly.

- 3.3 The application site lies within an existing and larger gypsy and traveller (G&T) site known as Perfect Place. Under ref: MA/13/0466 Perfect Place was granted planning permission on the 1st July 2014 for the permanent retention of a mobile home, touring caravan and pole barn, utility room, 2 stable blocks and a sand school. This planning permission was subject, amongst other things, to condition 1 worded as follows:

No more than one static residential caravan, as defined in Section 24(8) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 and one touring caravan, which shall not be used for permanent habitation purposes, shall be stationed on the land at anyone time.

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

- 3.4 Located within the Perfect Place site and immediately abutting the current application site to the west is another G&T site for which retrospective planning permission is being sought under ref:MA/15/501528 for the change of use of the land to enable the stationing of a mobile home, utility room, stable block and touring caravan. This application is also on the agenda for determination by the Planning Committee.
- 3.5 The above site abuts the eastern boundary of Blossom fronting Maplehurst Lane (also falling within the Perfect Place site) and for which permanent planning permission was granted under ref:MA/14/503810 for the change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed for a gypsy and traveller family. This decision has since been the subject of a judicial review (JR) and a copy of the judgement is attached as **APPENDIX 2**.
- 3.6 In summary the claimant challenged the lawfulness of the decision relying upon five grounds, four of which the Council successfully defended. Nevertheless the Court decided to quash the planning permission on the basis that the report to the Planning Committee had not described the planning status of nearby traveller sites, which the Court considered may have made a difference to the Planning Committee's decision. In particular, the Court considered the Committee may have granted temporary rather than full planning permission. The Court's decision is based on case-specific considerations and otherwise vindicates the Council's general approach to applications of this nature. The planning application in this case will now be re-determined by Planning Committee.
- 3.7 However the original applicant no longer occupies the site which was vacated for a period. It has now been reoccupied and when the site was reinspected on the 27th April 2017 this confirmed its continued occupation with a mobile home and one touring caravan present. The whole site remains covered with ballast hardstanding while a propane gas tank standing on a concrete base has been installed. Closeboarded fencing with immature landscaping abutting fronts the site.
- 3.8 As the original applicant no longer occupies the site and no longer wants the application determined the Council is not in a position to redetermine the application. Regarding the current occupation of the Blossom site as no planning permission exists this is currently unauthorised. However no planning permission has been submitted seeking to regularise the position.

4.0 POLICIES AND OTHER CONSIDERATIONS

- Development Plan 2000: ENV6, ENV28, ENV34, T13
- Staplehurst Local Plan

- National Planning Policy Framework
- National Planning Practice Guidance
- Draft Local Plan policies: SP17, DM16, DM34
- Planning Policy for Traveller Sites (PPTS)

5.0 LOCAL REPRESENTATIONS

5.1 This application has been the subject of 3 separate consultations in connection with the application as (a) originally submitted (b) on receipt of details of the applicant's gypsy and traveller status and (c) revised siting of the mobile home.

5.2 9 objectors have made representations and these are summarised as follows:

- Granting planning permission would lead to further plots being sold off on a piecemeal basis and given the number of existing G&T sites in the locality the settled community is becoming completely dominated therefore increasing local tensions contrary to Government policy.
- Result in harm to the rural character of the area and Low Weald Special Landscape Area while illumination results in harm to the night time rural environment.
- Contrary to the heritage provisions of the Staplehurst Neighbourhood plan.
- Intentional unauthorised development is a material consideration that should be given great weight in determining this application.
- To grant planning permission would breach the terms of the original permission setting limits on the number of pitches.
- Not convinced the applicant is a G&T as she wants to settle down and is no longer pursuing a nomadic lifestyle as she has a permanent address and takes holidays.
- The area has been subject to adhoc and unregulated G&T development.
- Not convinced the Council has any idea regarding the numbers or the real impact of the G&T development that has taken place.
- On its own or in conjunction with existing G&T development the net result is a cumulative impact that has eroded the rural character of the area.
- The application cannot be considered in isolation.
- The site is not allocated for G&T development while being sited in open countryside . The Council must justify any decision to approve contrary to Government Guidance.
- There are Listed Buildings in the locality who are adversely affected by retention of the of this G&T site. In addition the site lies in historic landscape and impact of the development on this must be taken into account.
- The site has been subject to flooding exacerbated by the hard surfacing that has taken place.
- Site lies next to a watercourse resulting in contamination and is not a matter that has been enforced by planning condition.
- Site is accessed by narrow countryside roads and granting planning permission will cause ongoing harm to the free flow of traffic and highway safety in the locality.
- Unauthorised G&T development in the locality has had an adverse impact on local wildlife.
- The 2014 Sustainability appraisal did not select Perfect Place as a sustainable G&T allocation and this should apply to this application.
- Conditions imposed on Perfect Place required site to be vacated once original applicants leave the site.

5.3 In addition an objector took independent legal advice that concludes the following:

- The Council cannot determine the application without first identifying the relevant policy framework.
- The applicant is not a gypsy.
- The site lies in open countryside away from existing settlements where permission should be very strictly limited and that permission should only be granted in exceptional circumstances.
- The Councils current GTAA allocation based on an outdated definition of gypsies and is therefore no longer reliable guide on which to base need. In any event if planning permission is to be granted this should be on a temporary basis only.
- As unauthorised occupation of the site took place this is now a material consideration that should be taken into account.

5.4 Weald of Kent Protection Society: Object on the following grounds:

- Applicant assumes her gypsy status qualifies her for occupancy of this site but consider full justification is required along the lines of Government guidance on traveller sites, whereby applicants need to offer substantial evidence of a nomadic lifestyle.
- Furthermore, her application is sent from an existing address in a residential area, and the Planning Authority needs to question her inability to remain at that address or in a similar dwelling.
- The site in question is in a comparatively remote area of woodland and green fields, some distance from public transport and the Staplehurst health centre and schools.
- Refer to paragraph 25 of the DCLG's Planning Policy for Traveller Sites, whereby locations in the open countryside need to be strictly limited.
- There are already several unauthorised traveller settlements on this Maplehurst Lane site, so the field presents a cumulatively unacceptable aspect.
- Concerned about the health and safety aspects as the area is prone to flooding, and close supervision of sewage, horse waste, and waste water disposal needs to be carried out to ensure that local waterways and water supplies are not contaminated.
- Continuing unauthorised development of traveller pitches at Maplehurst Lane requires a solution as it is unsatisfactory that a lack of a 5-year supply of suitable pitches for travellers should allow settlements like these to become established by default.

5.5 Heritage Protection: Objects on the following grounds:

- Has an unacceptable impact on nearby Listed Buildings
- Should be considered against the Staplehurst Neighbourhood Plan
- Harmful to the landscape character of the locality and appearance of the Low Weald.
- Unacceptable impact on historic landscape and has completely eroded the trackside scene of Maplehurst Lane.

6.0 CONSULTATION RESPONSES

6.1 Staplehurst Parish Council: Wish to see the application refused for the following reasons:

- Will compound local drainage and flooding problems.
- Result in overintensive development that will dominate the nearest settled community.
- The cumulative impact of the development was unsustainable and would intensify existing piecemeal and irregular development in the countryside contrary to policy.
- Site not allocated for development in the draft local plan or the Staplehurst neighbourhood plan.

- 6.2 **Kent Highways:** Were consulted on the individual and cumulative impacts of G&T development in this locality and its key points are as follows;
- Understand the majority of traffic movements access the public highway via private roads onto Frittenden Road. Data sources confirm that there have been no injury crashes at either access point for at least the last 10 years. As such in the context of the NPPF it is not considered a total of 28 static and touring caravans represent a severe impact on the surrounding road network justifying an objection.
- 6.3 **Environment Agency:** The surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such recommend the development is the subject of a Flood Risk Assessment (FRA)
- 6.4 **KCC Sustainable Drainage:** Consulted in relation to concerns raised in connection with surface flooding the area and its comments are summarised below:
- Have reviewed the location given the Environment Agency's comments and the larger fluvial concerns but have no record of any surface water issues at these locations.

7.0 BACKGROUND PAPERS AND PLANS

- 7.1 The development is shown on drawings received on the 23rd March 2015 with the siting of the mobile home amended on the 16th March 2016. Letters relating to the applicants gypsy status were received on the 13th November 2015 and 24th June 2016.

8.0 APPRAISAL:

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise. In this case the Development Plan comprises the Maidstone Borough-Wide Local Plan 2000. However given the advanced progress of the Draft Local Plan (DLP) to formal adoption this can now also be given significant weight in the determination of this application. As the site lies within open countryside forming of a Special Landscape Area (SLA) the application is specifically subject to policies ENV28 and ENV34 of the adopted local plan. 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."*

- 8.2 Policy SP17 of the submission version of the DLP (which is also a countryside protection policy) following the Interim findings of the local plan Inspector now states

that proposals which accord with other policies in the plan and do not harm the countryside will be permitted.

- 8.3 Policy DM16 of the DLP specifically relates to G&T development. This policy has also been amended by the local plan inspector and renumbered DM15. Criterion 2 has been amended to state that planning permission for G&T development will be granted if it would not result in significant harm to the to the landscape and rural character of the area. The requirement remains that the development should be well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles , not located in an area at risk of flooding and wildlife considerations are taken into account.
- 8.4 In the adopted plan none of the exceptions to the general policy of development restraint applied to this application which therefore represented 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 which is incapable of being acceptably mitigated. However given the increasing weight to be given to the DLP means policy DM16 (now DM15) is now a material consideration.
- 8.5 As a point of clarification it is considered the mobile homes fall within the definition of a caravan as set out under Section 13 of the Caravan Sites Act 1968 (as amended). In the event of Members seeing fit to grant retrospective consent for this development an appropriate condition will be imposed to secure this.
- 8.6 The key issues in relation to this application are therefore considered to be (a) principle (b) justification (c) visual impact (d) landscape and heritage (e)sustainability (f) impact on general and residential amenity (g) highway safety (h) wildlife considerations and (i) flooding.

PRINCIPLE OF DEVELOPMENT

- 8.7 The site lies in open countryside and is therefore subject to policy ENV28 of the adopted local plan.
- 8.8 Policy ENV28 relating to development in the countryside states, amongst other things, that;
- “Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.”*
- 8.9 Policy ENV28 sets out the type of development that can be permitted in the countryside but excludes G&T development.
- 8.10 Policy DM16 (now DM15) of the DLP specifically relating to G&T development now also represents a material consideration as does the Staplehurst Neighbourhood Plan. Policy PW2 of the plan states, amongst other things, that new development will not be permitted in open countryside except in exceptional circumstances.
- 8.11 A key consideration in the determination of this application is Government Guidance set out in ‘Planning Policy for Traveller Sites’ (PPTS) amended in August 2015. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging sites are likely to be found in rural areas.

- 8.12 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

Need for Gypsy Sites

- 8.13 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

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

- 8.14 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made.

The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

Supply of Gypsy sites

- 8.15 Accommodation for G&T's is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).

- 8.16 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

86 Permanent non-personal mobiles
20 Permanent personal mobiles
3 Temporary non-personal mobiles
33 Temporary personal mobiles

- 8.17 Therefore a net total of 106 permanent pitches have been granted since 1st October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 8.18 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The DLP allocate specific sites sufficient to provide 41

additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

- 8.19 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. This asserts the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the Council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.
- 8.20 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply if the development is found to be unacceptable for other reasons.

Gypsy status

- 8.21 Since this application was submitted, the Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, with the planning definition of 'gypsies & travellers' being amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

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

- 8.22 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.
- 8.23 In response to the above the applicant has advised the following:
- Would like to settle permanently at Staplehurst to continue family as it is too hard to keep travelling around with young children.
 - Wants running water and central heating.
 - Will continue going to gypsy gatherings like Appleby, Stow, Epsom and Kenilworth to maintain the gypsy lifestyle, traditions and social connections while undertaking business activities where opportunities present themselves.
 - Travel to fairs and horse fairs throughout the year to do business and socialise.
 - Trade in horses and try to find work in the surrounding areas like garden work and tree work.
 - At fairs also carry out flower arranging while selling articles for babies.
 - Absences can be up to 3 months or more.

- Daughter now settled in local school, have permanent doctors while have another baby daughter.
 - Want a stable base for the family but once children are older will continue to travel for work and other reasons.
- 8.24 The request for further information made in January 2017 did not appear to elicit any response and as such any judgement on the applicants as G&T status must be based on the information already submitted.
- 8.25 Regarding whether the occupants of the mobile home have lived a nomadic lifestyle and intend to continue living in such a manner it is evident the submitted information lacks detail. However it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in the settled community. Given the family circumstances of the applicant it is considered highly likely that to provide a stable base for the children to enable them to attend school occupation of the mobile home would be for extended periods. This would not however preclude adult members of the family continuing a nomadic lifestyle while one remained on site to perform family care duties to provide a stable base for the children. As such is considered this meets the latest planning definition of gypsies and travellers.
- 8.26 In assessing this application it would have been useful to have times, dates and locations of all events and places of work the occupants of the mobile home attend. However it must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community.
- 8.27 In addition even if the applicants have permanent housing accommodation elsewhere this does not preclude them from resuming a G&T lifestyle nor does this affect their ongoing G&T status.
- 8.28 As such it is considered that based on the submitted details the applicant and other occupants of the site, on the balance of probability, are gypsies and travellers that have led and will continue to lead a nomadic lifestyle and therefore fall within the latest planning definition of gypsies and travellers.

VISUAL IMPACT

- 8.29 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure. No specific reference is made to landscape impact though this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP (which specifically states that provided proposals do not harm the character and appearance of an area they will be permitted). In addition policy DM16 states, amongst other things, that permission will be granted if a site is well related to local services, would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account. Policy PW2 of the Staplehurst

Neighbourhood Plan seeks to limit new development in the countryside only to that required in exceptional circumstances.

- 8.30 It is generally accepted that mobile homes comprise visually intrusive development of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.
- 8.31 In this case, the application site lies within an existing lawful G&T site i.e. Perfect Place. It is acknowledged the permanent planning permission granted for Perfect Place was subject to a condition restricting the number of mobile and touring caravans which is exceeded by the current application. However the JR decision did not place weight on this condition in setting a limit on the number of pitches the site could accommodate. As such the existence of this condition does not constrain Members from dealing with this application on its merits as a new planning chapter in the sites history.
- 8.32 Regarding that part of the JR which was upheld, the judgement made clear that where G&T development is unauthorised (and notwithstanding the existence of applications seeking to regularise the development), the existence of such pitches is not material in assessing the character of an area. Assessment should therefore proceed on the basis that these sites are unoccupied and the land is in its former condition i.e. open countryside.
- 8.33 Members attention is drawn to the plan attached as **Appendix 1** showing G&T development in the locality. This shows 3 sites benefitting either from unconstrained permanent permissions or personal consents. However when these are excluded this still shows a number of sites in the locality (still including Blossom) which do not have the benefit of planning permission.
- 8.34 Members are reminded that two of these sites have since had planning permission refused with enforcement action pending. The current situation of Blossom is as explained earlier.
- 8.35 As such the Blossom site and other unauthorised development in the locality cannot be seen as having an impact on the character of the area. Consequently determining the visual impact of the development must be assessed on its own merits though the cumulative impacts of existing lawful development in the locality can also be taken into account.
- 8.36 Dealing first with the visual impact of the development as a discrete matter in its own right, the site is set back from Maplehurst Lane by a distance in excess of 120 metres with access onto an existing track. The mobile home stationed is tucked away in the south west corner of the site in an angled relationship with the site boundary. Nevertheless notwithstanding its low profile, set back from Maplehurst Lane and that there are no public footpaths close to or abutting the site from which other public views of the site can be obtained views are available to through the access. As such the mobile home is visible and therefore has an impact on the character of the countryside and landscape quality of the SLA although this is relatively well contained in the wider landscape.
- 8.37 In making this point it should be noted the southern site boundary comprises deciduous tree cover. Though providing a dense screen in summer there is a gap

through which long range views of a mobile home can be obtained from Maplehurst Barn to the south. In winter this screening effect would be lessened by leaf fall. However this needs to be placed in context. Firstly there is no right to a view as such while there is a separation distance in excess of 350 metres to the boundary with Maplehurst Barn. In these circumstances it is considered it would be difficult to make a substantive case of overriding visual harm based solely on loss of outlook to Maplehurst Barn.

- 8.38 Turning to the remaining elements of the proposal being the utility room and stable blocks, these are both small low profile buildings sited deep within the application site and to the east of the mobile home. Given their small size and unobtrusive siting it is considered they have little impact on the rural character or landscape quality of the area.

Cumulative Impacts:

- 8.39 The JR judgement makes plain it is only the impact of lawful G&T sites that can be taken into account in assessing the cumulative impact of this development. The 3 lawful sites are shown on the plan attached as **Appendix 1**. Perfect Place is set well back from Maplehurst Lane and is considered to be relatively unobtrusive in its landscape impact. Another lawful site is hidden within woodland on the opposite side of Maplehurst Lane and is also unobtrusive in its impact as a consequence. The remaining lawful site is that fronting the eastern side of Maplehurst Lane to the north. Being a lawful site its visual impact now forms an acknowledged part of the local area.
- 8.40 Having regard to the impact of the development under consideration, though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage and notwithstanding its proximity to the lawful Perfect Place site, its visual impact is considered to be more localised and contained. As such it is considered it would be difficult in this case to sustain an objection based on cumulative visual impact.

LANDSCAPE AND HERITAGE CONSIDERATIONS:

- 8.41 It is contended the site lies within an historic landscape while there are nearby Listed Buildings whose character and setting will be adversely affected by retention of this G&T site which is also contrary to the provisions of the Staplehurst Neighbourhood Plan. Though the Staplehurst Neighbourhood Plan is now part of the development plan in the determination of this application it is silent on specific G&T and landscape issues though policy PW2 does seek to prevent new development in the countryside except in exceptional circumstances.
- 8.42 The site is identified as falling within open countryside and within the Low Weald SLA in the adopted local plan. The DLP no longer makes specific reference to SLA's but policy SP17 of the DLP, as amended by the Local Plan Inspector, states amongst other things that the distinctive landscape character of the Low Weald as defined on the policies map will be conserved and enhanced as landscapes of local value.
- 8.43 The Maidstone Landscape Character Assessment 2012 identifies the site as falling within the Sherenden Wooded Hills. The key characteristics of this area are identified as being a low lying and gently undulating clay Low Weald Landscape with many ponds, ditches and watercourses. This includes large irregular blocks of ecologically important ancient woodland interspersed with pasture, orchards and arable fields along with species rich native hedgerow field boundaries with mature oaks trees as

imposing hedgerow trees and sometimes within fields where boundaries have been removed. Historic buildings are scattered throughout the landscape.

- 8.44 The Maidstone Landscape Capacity Study: Sensitivity Assessment – Jan 2015 assessed the Sherenden Wooded Hills as having high overall landscape sensitivity and therefore sensitive to change. It also concluded that development potential is limited to within and immediately adjacent to existing settlements and farmsteads in keeping with the existing. Other development supporting rural enterprises could be considered though extensive, large scale or visually intrusive development will be inappropriate.
- 8.45 It can only be reiterated that though the site does have some visual impact, given its siting well back from the Maplehurst Lane road frontage its visual impact is considered to be relatively localised and contained. As such it is considered it would be difficult in this case to argue landscape harm similar to the refused applications fronting Maplehurst Lane.
- 8.46 Turning to the impact of the development on heritage assets with the area, the site does not lie within or close to any Conservation Area. The nearest listed building is Maplehurst sited some distance to the south of the site with views to the development screened by intervening trees and hedgerows.
- 8.47 As such it is not considered the development has any material impact on the character and setting of any existing acknowledged heritage assets within the locality.

SUSTAINABILITY

- 8.48 Gypsy and traveller sites are mainly located in the countryside and the development follows this pattern. Concerns have been raised that this site is unsustainable and is unacceptable on this ground. However the development lies within the site area of a lawful G&T site for which planning permission has already been granted. As such it would appear inconsistent to adopt a different approach to this development.
- 8.49 In addition, compared to many G&T sites the site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. As such no objection is identified to the development on sustainability grounds.

GENERAL AND RESIDENTIAL AMENITY

- 8.50 Given (a) the sites set back from Maplehurst Lane and (b) unobtrusive siting of the mobile home, utility room and stable block and (c) the nearest houses are sited over 170 metres to the west and more than 300 metres to the south it is considered it would be difficult to argue any ongoing significant detrimental impact to the residential amenity of any neighbouring houses in terms of loss of light, outlook, privacy, general noise and disturbance.
- 8.51 Of wider concern is the view that the local community is being overly dominated by G&T development and the adverse impact this is having on local services. However given the small number of persons being accommodated in this development it is considered it would be problematic to seek to pursue such an argument in the circumstances of this application.

HIGHWAY SAFETY CONSIDERATIONS:

- 8.52 Objections to the development also include concerns relating to highway safety and the free flow of traffic on the local road network arising not only from this development but also in connection with other G&T development that has taken place. The views of Kent Highways were therefore sought. It concluded that notwithstanding the traffic generated by lawful and unlawful G&T development in the locality it could not support an objection based on harm to the free flow of traffic and highway safety in the locality.
- 8.53 Consequently as it is only possible to take into account traffic generated by the lawful G&T sites in the locality and that traffic generated by these would be materially less than the quantum of lawful and unlawful G&T development, it not considered there are sustainable objections to retention of this site form G&T use based on harm to the free flow of traffic and highway safety in the locality.

WILDLIFE CONSIDERATIONS:

- 8.54 As this is a retrospective application and as the site is covered by the mobile home with the remainder laid out as hardstanding or grassed, it clearly has little wildlife and habitat potential in its current form.

FLOODING:

- 8.55 The site lies in zone 1 and is therefore not subject to fluvial flooding. However concerns were raised that the site lies in an area at risk of surface water flooding and the EA was consulted as a consequence.
- 8.56 Its response was that the surface water flood map shows the site to be at risk from flooding with photographic evidence to this effect. As well as existing flood risk the development may have an impact on the wider catchment area. There is an increased runoff associated with the area of hardstanding and no formal drainage system or surface water attenuation. As such it recommended the development be the subject of a Flood Risk Assessment (FRA).
- 8.57 It should be noted that as the site is not at risk from fluvial flooding there was no requirement to submit an FRA with the application. In addition the area of hardstanding has a ballast surface while the remainder of the site is grassed. Given these are both permeable the likelihood of water runoff is unlikely to be materially different from previous site conditions in the absence of changes to site levels.
- 8.58 As such it not considered the EA's request for an FRA is justified nor has evidence been submitted that retention of the development would make surface water runoff and flooding any worse or that the occupants of the development are placed at risk as a result of surface water flooding. KCC sustainable drainage has also been consulted. However in the absence of a negative response from this body it is not considered there is sufficient evidence to support objections to the development based on surface water flood risk.

OTHER MATTERS:

- 8.59 Concerns have been raised that retention of the development will result in continued pollution and harm to the local water environment. The applicants state that surface water drains into adjoining watercourses while waste water is dealt with by a septic tank. Both measures appear as appropriate responses having regard to the nature of the development. However should pollution be identified from this site the EA using

its pollution prevention powers will be far better placed to take immediate action in such an eventuality.

8.60 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents a material consideration that should be taken into account in determining such applications. However guidance on how much weight this should be given is not clear while the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.

8.61 The report states the development represents a departure from the development plan normally requiring Press and Site notices. However given the small scale and enclosed nature and minimal wider impact of the development it is seen to comply with the relevant polices. As such it is not considered necessary to advertise it as a Departure.

9.0 CONCLUSIONS:

9.1 Though the Council is able to demonstrate a 5 year supply of G&T sites this does not mean, in the absence of demonstrable harm on other grounds, that the development is unacceptable in principle particularly as the emerging plan policy DM16(now DM15) states that planning permission will be granted if the development does not result in significant harm to the landscape and rural character of the area.

9.2 The key conclusions are considered to be as follows:

- The occupants of the site fall within the revised definition of gypsies and travellers.
- The development is acceptable in its individual and cumulative visual impacts with other lawful G&T development in the locality while not materially contributing to dominating the local settled community.
- Has not resulted in any material loss of amenity to dwellings in the locality.
- Is acceptable in sustainability and wildlife terms.
- Is acceptable in its highway impacts.

9.3 As such in the absence of demonstrable harm to the character of the countryside and wider landscape it is considered the development is acceptable in its own right. In the circumstances it is recommended that permanent and unfettered consent to use the site for G&T accommodation is granted. Members are also advised that granting permanent planning permission here counts towards the overall supply of G&T sites in meeting the need identified in the GTAA.

10.0 RECOMMENDATION – GRANT subject to the following conditions

(1) The site shall only used as a caravan site for gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015 and shall only be occupied Lena and Tom Collins and their dependents.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- (2) No more than one caravan and one tourer, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (3) No external lighting whatsoever shall be placed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the night time rural environment.

- (4) No commercial or business activities shall take place on the land, including the storage of vehicles or materials or any livery use.

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

- (5) Within three months of the date of this decision details of the method of foul and surface water disposal, general waste disposal and potable water provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 3 months of approval retained as such at all times thereafter.

Reason: in the interests of health and safety and to prevent water pollution.

- (6) The stables and utility room hereby approved shall only be used in connection with the use of the site as a gypsy and traveller site and not for any trade or business purpose.

Reason: In the interests of amenity.

- (7) The development hereby approved shall only be carried out in accordance with the following submitted plans being those received on the 23rd March 2015.

Reason: In the interests of amenity.

INFORMATIVES:

Foul sewage:

Details should include the size of individual cess pits and/or septic tanks and/or other treatment systems. Information provided should also specify exact locations on site plus any pertinent information as to where each system will discharge to, (since for example further treatment of the discharge will be required if a septic tank discharges to a ditch or watercourse as opposed to sub-soil irrigation).

If a method other than a cesspit is to be used the applicant should also contact the Environment Agency to establish whether a discharge consent is required and provide evidence of obtaining the relevant discharge consent to the local planning authority.

The Council's approach to this application:

Planning Committee Report

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:

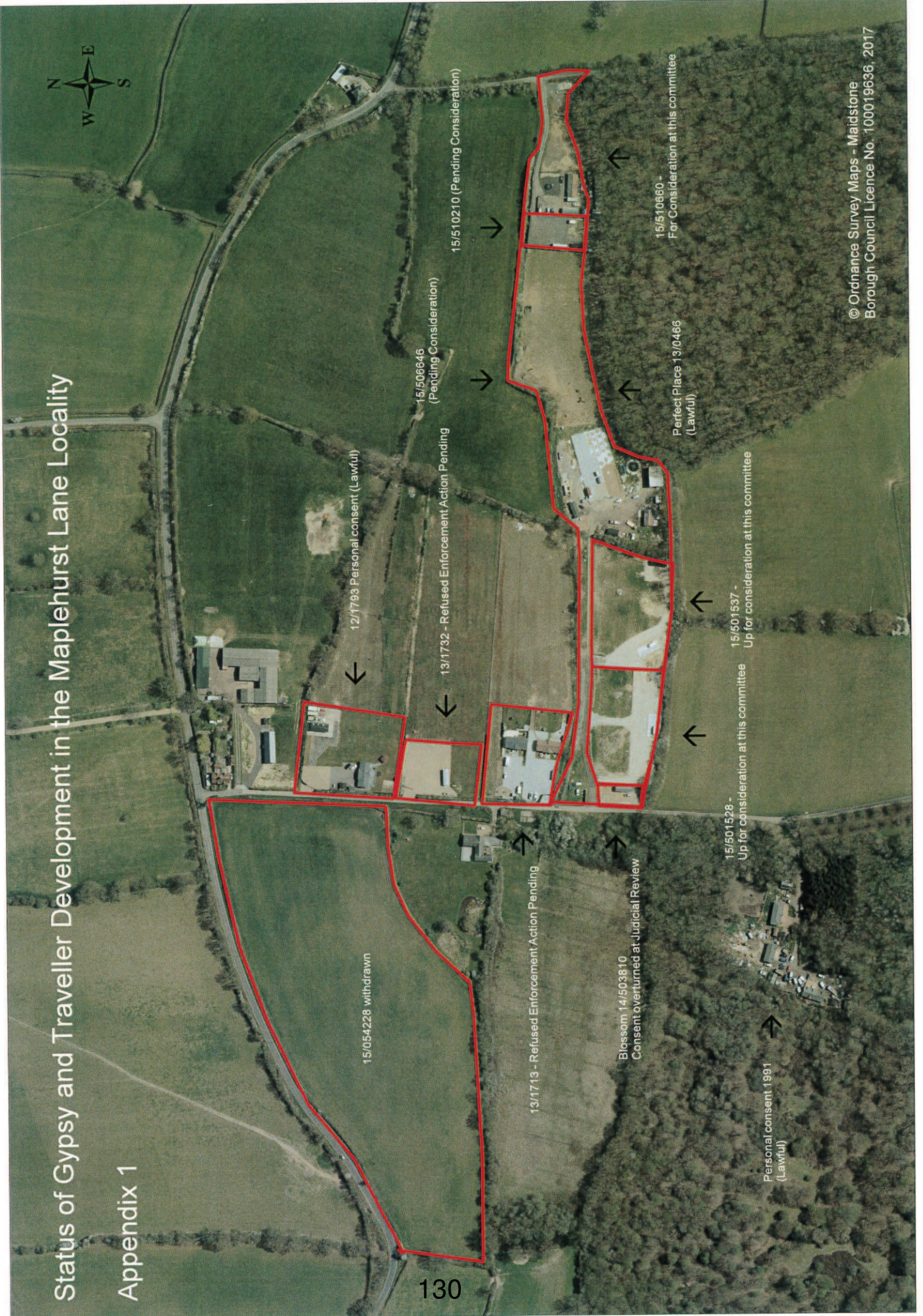
The application was acceptable as submitted.

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.

Status of Gypsy and Traveller Development in the Maplehurst Lane Locality

Appendix 1



15/054228 withdrawn

12/1793 Personal consent (Lawful)

13/1732 - Refused Enforcement Action Pending

15/066646 (Pending Consideration)

15/510210 (Pending Consideration)

13/1713 - Refused Enforcement Action Pending

Blossom 14/503810
Consent overturned at Judicial Review

15/501528 -
Up for consideration at this committee

15/501537 -
Up for consideration at this committee

Perfect Place 13/0466
(Lawful)

15/510660 -
For Consideration at this committee

Personal consent 1991
(Lawful)

Appendix 2



Neutral Citation Number: [2016] EWHC 1436 (Admin)

Case No: CO/4214/2015

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 17/06/2016

Before :

RHODRI PRICE LEWIS QC

(Sitting as a Deputy High Court Judge)

Between :

THE QUEEN
(on the application of XY)

Claimant

- and -

MAIDSTONE BOROUGH COUNCIL

Defendant

and

THOMAS SMITH

**Interested
Party**

**Mr Andrew Parkinson (instructed by Richard Buxton Environmental and Public Law
Solicitors) for the Claimant**

Mr Mark Beard (instructed by Sharpe Pritchard LLP) for the Defendant

The Interested Party did not appear

Hearing date: 17 May 2016

The Deputy Judge (Rhodri Price Lewis QC):

Introduction

1. Permission to bring this judicial review was given by Collins J on the 15th October 2015 when he also made an anonymity order in respect of the Claimant. The Claimant seeks judicial review of the decision by Maidstone Borough Council, the local planning authority for their area, to grant planning permission for the “change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed” on land named on the decision notice as Blossom, Maplehurst Lane, Frittenden Road, Staplehurst, Kent. That planning permission was granted on the 13th July 2015. The applicant for planning permission was Mr Thomas Smith, the Interested Party. Mr Smith has taken no part in these proceedings. The land in respect of which the planning permission was granted has been referred to as “the Blossom site” throughout these proceedings.
2. That site forms part of a wider area known as Perfect Place on which planning permission was granted in July 2014 for the retention of a mobile home, a touring caravan and a barn subject to a condition (“Condition 1”) that no more than one static residential caravan and one touring caravan should be stationed on the Perfect Place site at any one time.
3. The Blossom site lies at the southern end of Staplehurst village within a designated Special Landscape Area where it is the policy of the Local Plan that landscape considerations will normally take precedence over other matters. It is accessed off Maplehurst Lane.
4. It forms the western end of the land known as Perfect Place which itself extends from Maplehurst Lane towards the east over an area of 2.2 hectares. Planning permission had been granted on appeal in 2006 for the use of Perfect Place for the keeping of horses and the stationing of caravans and homes for residential purposes subject to a condition that the use was to be personal to Mr Perfect, his wife and children and that the use was to be for a limited period of three years. There was a further condition that no more than two caravans should be stationed on the site at any one time of which only one was to be a static caravan or mobile home. In 2009 the Council granted a further temporary planning permission. On the 1st July 2014 the Council granted the permanent planning permission referred to above.
5. To the east of the Blossom site and also within the Perfect Place site are two areas used for stationing mobile homes. Applications for planning permission for the retention of those mobile homes were made in respect of both those sites in February 2015. Those applications have not been determined.
6. To the east of the Perfect Place site and fronting onto Park Wood Lane is an area known as Parkwood Stables. Planning permission was granted on appeal in June 2013 for the use of that land for residential purposes involving the stationing of two mobile homes, three touring caravans and two utility blocks for two gypsy families. A condition requiring the submission and approval of schemes for the layout of the site has not been complied with and an application was made in 2015 to regularise the use despite the breach of that condition.

7. To the north of the Blossom site and also fronting Maplehurst Lane are four sites also used for stationing mobile homes. Applications for planning permission were made in respect of three of those sites in 2013 but those applications have also not been determined. No enforcement action has been taken in respect of any of those sites where mobile homes have been stationed. Personal planning permission was granted for stationing one caravan in respect of the most northerly of those sites in October 2012 but an application to increase the number of caravans to four was refused in July 2015 on the basis that there was no additional household being created and so there was no over-riding new need. The Claimant has identified seven breaches of planning control on land near the Blossom site at the time of the decision under challenge and indeed at the time of the hearing and the Defendant does not disagree with that analysis.

8. The Blossom application was reported to the Council's Planning Committee on 18th June 2015, with a recommendation for approval. The planning officer's report to the committee runs to 10 pages. It deals with the site description, the proposal before the committee and the relevant planning history. It identifies relevant government and local policies. It explains that no representations had been received from neighbours but that the Staplehurst Parish Council objected to the application. The officer then set out his appraisal which he began by reminding the members of the committee that section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. He then identified the key issues in relation to the proposal before them as "(a) principle (b) personal circumstances (c) impact on rural character and SLA (c) [sic] impact on the outlook and amenity of properties overlooking and abutting the site (d) highway and parking considerations and (e) sustainability." The Claimant accepts that those were the key issues before the committee. The officer then went on in section 7 of his report to deal with each of those key issues in turn and finally in section 8 expressed his conclusions as follows:
 - The applicant's personal circumstances justify both the development that has taken place and the need to be at this location.
 - Given the acknowledged shortfall in meeting the demand for new gypsy and traveller sites granting planning permission here will make a material contribution in satisfying the identified need for such sites while helping to minimise the pressure for similar development in more sensitive locations.
 - No demonstrable harm to the rural character of the area and that of the SLA.
 - Will not result in harm to the outlook or amenity of any nearby dwellings.
 - Is acceptable in highway and parking terms
 - No objection on sustainability grounds."

9. The Planning Committee resolved to grant planning permission and on the 13th July 2015, the Council granted planning permission for the development.

10. The Claimant contends, in brief, that in granting planning permission the following errors of law occurred. Firstly, the members of the planning committee failed to have regard to the status in planning terms of the nearby gypsy sites which were either in unlawful use or in one case subject to a personal planning permission. Secondly, the committee failed to take into account that in granting planning permission in 2014 for the Perfect Place site the Council had concluded that more than one static caravan or touring caravan on that overall site would have an unacceptable visual impact. Thirdly, it is contended that the committee failed to take reasonable steps to obtain relevant information before concluding that Mr Smith was a gypsy. Fourthly, it is submitted that the committee failed to have regard to the evidence base for the emerging local plan as to the sustainability of the site. Fifthly, it is contended that the Council erred in failing to treat the current application and the applications then pending before it on the neighbouring sites as one project and therefore the application was a "Schedule 2 application" for the purposes of Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Council should have adopted a screening opinion under Regulation 5.
11. This is the order in which the grounds of challenge were dealt with in submissions even though that was not the order in which they were pleaded and I shall consider them in the order in which they were argued in this judgment.

Legal principles for reviewing decisions taken by local planning authorities

12. The general approach to challenges to decisions of local planning authorities to grant planning permission were recently summarised by Holgate J in *R (oao Nicholson) v Allerdale Borough Council* [2015] EWHC 2510 (Admin) and I gratefully adopt his summary, as follows:

- "10. The grounds of challenge in this case primarily involve criticisms of the officer's report. The relevant principles upon which the High Court will approach a challenge of this nature have been set out in a number of cases and were summarised in *R (Luton Borough Council) v Central Bedfordshire Council* [2014] EWHC 4325 (Admin) at paragraphs 90 to 98.
11. For the purposes of the present application I would emphasise the following principles drawn from that summary:-
 - (i) In the absence of contrary evidence, it is a reasonable inference that members of the planning committee follow the reasoning of the officer's report, particularly where a recommendation is accepted;
 - (ii) The officer's report must be read as a whole and fairly, without being subjected to the kind of examination which may be applied to the interpretation of a statute or a contract;
 - (iii) Whereas the issue of whether a consideration is relevant is a matter of law, the weight to be given to a material consideration is a matter of planning

judgment, which is a matter for the planning committee, not the court;

(iv) "An application for judicial review based on criticisms of the planning officer's report will not normally begin to merit consideration unless the overall effect of the report significantly misleads the committee about material matters which thereafter are left uncorrected at the meeting of the planning committee before the relevant decision is taken" per Lord Justice Judge (as he then was) in *Samuel Smith Old Brewery (Tadcaster) v Selby District Council* (18 April 1997)."

(v) "In construing reports, it has to be borne in mind that they are addressed to a "knowledgeable readership", including council members "who, by virtue of that membership, may be expected to have a substantial local and background knowledge."

(*R v Mendip District Council ex parte Fabre* (2000) 80 P CR 500 per Sullivan J, as he then was).

(vi) "*The purpose of an officer's report is not to decide the issue, but to inform the members of the relevant considerations relating to the application.* It is not addressed to the world at large, but to council members who, by virtue of that membership, may be expected to have substantial local and background knowledge. There would be no point in a planning officer's report setting out in great detail background material, for example, in respect of local topography, development plan policies or matters of planning history if the members were only too familiar with that material. *Part of a planning officer's expert function in reporting to the committee must be to make an assessment of how much information needs to be included in his or her report in order to avoid burdening a busy committee with excessive and unnecessary detail.*" (emphasis added)

(Sullivan J in the *Ex parte Fabre* case at page 509)

(vii) Likewise in *Morge v Hampshire County Council* [2011] UKSC 2 at paragraph 36, Baroness Hale of Richmond said:

"Democratically elected bodies go about their decision-making in a different way from courts. They have professional advisers who investigate and report to them. Those reports obviously have to be clear and full enough to enable them to understand the issues and make up their minds within the limits that the law allows them. But the courts should not impose

too demanding a standard upon such reports, for otherwise their whole purpose would be defeated..."

12. ...the observations of Sullivan J (as he then was) in *R (Newsmith Stainless Ltd) v Secretary of State* [2001] EWHC Admin 74 (at paragraphs 6 to 8) on perversity challenges to the decisions of planning Inspectors are also applicable where challenges of that nature are made to the decisions of a local authority.
13. Thus, an application for judicial review is not an opportunity for a review of the planning merits of the Council's decision. Although an allegation that such a decision was perverse, or irrational, lies within the scope of proceedings under CPR Part 54, "the Court must be astute to ensure that such challenges are not used as a cloak for a rerun of the arguments on the planning merits" (*Newsmith* at paragraph 6). In any case where an expert tribunal is the fact finding body, as in the case of a planning committee (see Cranston J in *R (Bishops Stortford Federation) v East Herts D.C.* [2014] PTSR 1035 at paragraph 40), the threshold for *Wednesbury* unreasonableness is a difficult obstacle for a Claimant to surmount, which is greatly increased in most planning cases by the need for the decision-maker to determine not simply questions of fact, but a series of planning judgments. Since a significant element of judgment is involved, there will usually be scope for a fairly broad range of possible views, none of which could be categorised as unreasonable (*Newsmith* at paragraph 7). Moreover, the decision may also be based upon a site inspection, which may be of critical importance. Against this background, a Claimant alleging that a decision-maker has reached a *Wednesbury* unreasonable conclusion on matters of planning judgment "faces a particularly daunting task" (*Newsmith* at paragraph 8).
14. On the other hand, as Mr. Dan Kolinsky QC (who appeared on behalf of the Claimant) pointed out, irrationality challenges are not confined to the relatively rare example of a "decision which simply defies comprehension", but also include a decision which proceeds from flawed logic (relying upon *R v North and East Devon Health Authority ex parte Coughlan* [2001] QB 213, 244 at paragraph 65)."
13. Further, section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with an application for planning permission the local planning authority "shall have regard to (a) the provisions of the development plan, so far as material to the application ... and (c) any other material consideration." In *Tesco Stores v Secretary of State for the Environment* [1995] 1 WLR 759 it was held that "material" means "relevant". A number of the grounds of challenge here claim that the planning committee failed to have regard to various material considerations. The relevant test is set out by Glidewell LJ in *Bolton Metropolitan Borough Council v Secretary of State for the Environment* (1990) 61 P&CR 343 at 352-353, as applied by the Court of

Appeal in the context of judicial review against the grant of planning permission by local planning authorities in *R(on the application of Watson) v London Borough of Richmond upon Thames* [2013] EWCA Civ 513 at [26]:

- “1. The expressions used in the authorities that the decision maker has failed to take into account a matter which is relevant ... or that he has failed to take into consideration matters which he ought to take into account ... have the same meaning.
 2. The decision-maker ought to take into account a matter which might cause him to reach a different conclusion to that which he would reach if he did not take it into account. Such a matter is relevant to his decision making process. By the verb ‘might’, I mean where there is a real possibility that he would reach a different conclusion if he did take that consideration into account.
...
...
...[T]here is clearly a distinction between matters which a decision maker is obliged by statute to take into account and those where the obligation to take into account is to be implied from the nature of the decision and of the matter in question
 4. ...[T]here is clearly a distinction between matters which a decision maker is obliged by statute to take into account and those where the obligation to take into account is to be implied from the nature of the decision and of the matter in question
 5. If the validity of the decision is challenged on the ground that the decision maker failed to take into account a matter in the second category, it is for the judge to decide whether it was a matter which the decision maker should have taken into account.
 6. If the judge concludes that the matter was ‘fundamental to the decision’, or that it is clear that there is a real possibility that the consideration of the matter would have made a difference to the decision, he is thus enabled to hold that the decision was not validly made. But if the judge is uncertain whether the matter would have had this effect or was of such importance in the decision-making process, then he does not have before him the material necessary for him to conclude that the decision was invalid.
 7. ...Even if the judge has concluded that he could hold that the decision is invalid, in exceptional circumstances he is entitled nevertheless, in the exercise of his discretion, not to grant any relief.”
14. Therefore, a decision may be quashed for failure to have regard to a material consideration where it is clear that there is a real possibility that consideration of the matter would have made a difference to the decision.

Ground 1:

15. **The Claimant's Submissions:** The Claimant submits that the Council through its committee erred in failing to have regard to the planning status of the surrounding gypsy sites when considering the prevailing character of the area and so failed to have regard to a material consideration. The Claimant points out that of the gypsy sites to the north only one had the benefit of planning permission and that was a personal permission. When an application was made for further development on that site it was refused by the Council. The Claimant submits that if the existing character of the area is to be used to justify a finding that the application would not have a detrimental impact it was material to consider that the existing development is either unlawful or granted subject to a personal condition and therefore inherently temporary. It is submitted that with the unlawful sites it has never been concluded that their development is acceptable and with the temporary site there is a real possibility that it would revert to agriculture. So a permanent planning permission is being granted and justified here on the basis of circumstances that were inherently temporary. It is submitted that if the members had been told of the status of these other sites they might very well have granted a temporary planning permission in order to see what happens on those other sites.
16. The officer dealt with the impact on the rural character of the area and the SLA at paragraphs 7.21 to 7.27 of the analysis section of his report in the following terms:

“7.21 Where a gypsy and traveller site is located in a rural area this should normally fall outside an AONB, Green Belt or area liable to flooding. The application site does not fall in an area the subject of these specific restrictions but it is located in countryside falling within an SLA.

7.22 It is therefore subject to provisions of policies ENV28 and ENV34 of the adopted Local Plan. Policy ENV28 states that development will not be permitted in the countryside where it would harm the character and appearance of an area or amenities of surrounding occupiers. Policy ENV28 nevertheless makes clear that exceptions will be permitted if justified by other policies contained in the plan. In SLA's landscape considerations will normally take precedence over other matters.

7.23 It is generally accepted that mobile homes comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.

7.24 A key consideration here is that the application site is located on land already having planning permission for a gypsy and traveller site. Furthermore, the character of the area in the vicinity of the site is already made up of a number of gypsy and traveller sites fronting the track to the

north. Although these are mainly hidden from direct view from the track, glimpse views are nevertheless available to them through gates and breaks in boundary screening.

7.25 Development that has already taken place on the application site continues this pattern with 5 bar galvanised steel gates providing views into the site with the site perimeter being defined by close boarded fencing set close to the back edge of the track. As such the site in its current condition cannot be considered as being screened by existing permanent features though the intention is to plant a native species hedgerow in front of the fence to screen both it and the caravan site behind from view.

7.26 Given (a) the prevailing character of the area, already significantly defined by the prevalence of gypsy and traveller development in the immediate locality and (b) this site falls within in [sic] area already benefitting from planning permission for such purposes, it is considered it would be difficult to make a sustainable case of further material harm to the character of the area. Regarding revisions to the amenity block, what has already been erected on the site is both smaller and more unobtrusively sited than that originally proposed and is considered proportionate in providing essential ancillary facilities for the site occupants.

7.27 As such, subject to a condition securing the proposed landscaping, it is considered that the visual impact on the rural character of the area and wider SLA is acceptable."

17. It is clear and indeed it is not disputed by the Defendant that the officer's report did not expressly address the planning status of the land to the north. The Defendant does not suggest that the matter was addressed in the discussion at the meeting and it is not said that members of the committee otherwise knew of those matters. There is no witness statement from any member of the committee.
18. **The Defendant's Submissions:** The Defendant submits that it is a matter of the officer's judgment as to what goes in to his report and that he was under no obligation to refer to the fact that the sites to the north do not have the benefit of planning permission. It is submitted that it could not be said that members were significantly misled by the absence of such information. The Defendant draws attention to three sites which do have the benefit of planning permission as traveller sites, namely the site to the north with temporary planning permission, the Perfect Place site and a site known as Little Oak which has a temporary planning permission. It was submitted that even the sites with temporary permission could continue in that use for a very long time and in particular it was pointed out that the temporary planning permission to the north enures for the benefit of the family's children who could remain for a substantial period. It was further submitted that unauthorised development can affect the character of an area and as any enforcement action would be likely to be resisted there was no real prospect of the character of the area changing in the foreseeable future. It was submitted that the fact that there were applications for planning permission to regularise the unlawful uses and that the Council has no present

intention to take enforcement action meant that the character of the area had been established for the foreseeable future by these developments. Overall it was submitted that the Claimant's approach to the officer's report was unduly legalistic.

Discussion:

19. I do not agree that the Claimant adopted the wrong approach to the officer's report under this ground. The complaint is that the report failed to mention factual matters which were material to the members' decision and that if they had been mentioned there is a real possibility that their decision might have been different. It is clear that the officer did rely on the "gypsy and traveller sites fronting the track to the north" as "mak[ing] up the character of the area": see paragraph 7.24 of the report. The "prevailing character of the area" was said to be defined by these developments: see paragraph 7.26. This was one of the two matters relied upon as resulting in it being "difficult to make a sustainable case of further material harm to the character of the area" from the development for which planning permission was being sought: see paragraph 7.26 again. In my judgment it was material to this assessment that the sites to the north were either in unlawful use and therefore susceptible to enforcement action or had the benefit of only temporary permission. The character of the area could therefore change if the Council took action or if the temporary permission expired. This is not to criticise the officer's report in an inappropriately legalistic way but simply to point out that relevant information was not put before the members at all and that information might have caused them to reach a different decision. The Defendant did not suggest that the members knew of the planning status of these other sites fronting Maplehurst Lane from their local knowledge or from having been members of the committee on previous occasions. There was certainly no evidence to that effect.
20. The Little Oak site referred to by the Defendant does not front onto Maplehurst Lane and so it is not one of the sites being referred to by the officer and relied upon as affecting the character of the area. The Perfect Place caravans are towards the centre of that site in accordance with the plans approved by the Council and again was not being relied upon by the officer as affecting the character of the area as seen from Maplehurst Lane. Further, whilst the site to the north with temporary planning permission could continue lawfully in use by the children of the family the members were not informed of the temporary nature of the permission at all so were not in a position to form their judgment as to how the planning status of the site affected its impact on the character of the area. In my judgment the possibility of enforcement action being taken was a matter that the members of the committee should have been able to consider for themselves if they had the information before them as to the unlawful nature of some of the existing developments. The applications for retrospective planning permission for the unlawful developments were submitted some years ago and there is no officer's report in relation to any of them and so not even a professional officer's view has been formed as to whether those applications should be approved. It is not possible to conclude in those circumstances that planning permission is likely to be granted. In any event, this is a matter that the members of the committee should have been able to consider: they were not able to because they did not have the relevant information before them in the officer's report.
21. In my judgment the members of the committee were significantly misled about material matters by this report in that they were invited to make a decision to grant

planning permission in reliance on matters that were potentially temporary in nature that went to a key issue in the decision, namely, the extent of harm to the character of the area by the development for which planning permission was being sought.

22. The claim therefore succeeds on this ground.

Ground 2:

23. **The Claimant's Submissions:** The Claimant submits that the Committee failed to have regard to the fact that the Perfect Place planning permission had a condition, Condition 1, attached to it which provided that no more than one static residential caravan and one touring caravan were to be stationed on the land at any one time. The reason for the condition was "to accord with the terms of the application and in the interest of visual amenity" and so in granting that planning permission the Council had reached a judgment that having more than one static or touring caravan on the Perfect Place site would have an unacceptable impact on visual amenity. The Blossom site is part of and within the Perfect Place site and so to grant planning permission for more caravans was inconsistent with that earlier determination. No reasons have been given for departing from that earlier judgment and no regard has been had to the importance of consistency in decision-making, as explained by Lindblom J, as he then was, in *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government* [2014] EWHC 754 (Admin) at [19 (7)].
24. In his report the officer had advised the members that "a key consideration here is that the application site is located on land already having planning permission for a gypsy and traveller site" (see paragraph 7.24 quoted above) and that "given (a) the prevailing character of the area, already significantly defined by the prevalence of gypsy and traveller development in the immediate locality and (b) this site falls within an area already benefitting from planning permission for such purposes, it is considered that it would be difficult to make a sustainable case of further material harm to the character of the area" (see paragraph 7.26). It is submitted that in those circumstances the officer should have advised members of Condition 1 attached to the Perfect Place permission and the reason for it so that they could take it into account in deciding whether granting planning permission for more caravans would have an adverse effect on the character and appearance of the area.
25. **The Defendant's submissions:** Mr Beard on behalf of the Defendant Council submits that in attaching Condition 1 to the Perfect Place permission the Council did not decide that a greater quantum of development than the one static residential caravan home and the one touring caravan permitted would have an unacceptable impact on visual amenity. The condition was attached to ensure that the grant of planning permission accorded with the terms of the application and the merits of granting planning permission for a more intensive form of traveller site development was not before the committee who considered the application in 2014. So it is submitted that a reasonable reader would not assume that the Council imposed Condition 1 on the 2014 permission having assessed the planning merits of a different and more intensive form of traveller site development but rather to explain that the council wished to retain control over the future development of the site and identified the interest of acknowledged planning importance engaged, namely the protection of visual amenity. By contrast the members of the committee who granted the planning

permission under challenge knew full well that they were considering an application that if granted would represent an “intensification” of the existing lawful traveller site.

Discussion:

26. It is accepted by the Defendant that the officer’s report did not refer expressly to Condition 1 to the planning permission granted on the 1st July 2014 nor therefore to the reason for attaching the Condition. That grant of planning permission was made by an officer of the Council under delegated powers and so it is not likely that members knew of the Condition from having been members of earlier committees.
27. Nevertheless, in my judgment the members of the committee knew from the officer’s report that the impact on the rural character of the area and on the Special Landscape Area was a key issue before them: see paragraph 7.02. They had the benefit of a site visit. They knew that the application site before them “is located on land already having planning permission for a gypsy and traveller site”: paragraph 7.24. The issue is whether they were significantly misled about a material matter by the report failing to inform them that an earlier decision had been made that only one static residential caravan and one touring caravan should be stationed on the land which included the area of the application site and that that was done “in the interests of visual amenity”. In my judgment the failure to inform the committee of that Condition and of the reason for it does not cross over the line into significantly misleading the committee on a material matter. They knew the importance attached to the Special Landscape Area and that, in that area, landscape considerations will normally take precedence over other matters: see the officer’s report at paragraph 7.22. They could see from their site visit the effect on the landscape of the caravans on the Perfect Place site and on the application site. They did not need to know in order to arrive at a lawful judgment on these matters that the officer who had granted the Perfect Place permission had decided that a condition restricting the number of caravans was necessary in the interest of visual amenity. In my judgment they were not reaching an inconsistent view. They were simply forming their view that the caravans they saw on their site visit did not have such an effect on visual amenity so as to justify refusal of planning permission.
28. This ground of challenge therefore fails.

Ground 3:

29. **The Claimant’s Submissions:** The Claimant submits that the committee failed to take reasonable steps to obtain relevant information before concluding that the applicant was a gypsy. The applicant’s status was central to the issues before the committee. A “key issue” identified in the officer’s report was characterised as “personal circumstances” (see paragraph 7.02 (b)) and the need for more gypsy and traveller sites was seen as a “key consideration”: paragraph 7.04. The officer’s report advised the members: “The status of the applicant as a gypsy is accepted as both he and his family comply with the definition of gypsies set out in Government policy”: paragraph 7.15.
30. At the date of the decision the definition of gypsies and travellers was set out in Annex 1 of the Government’s “Planning policy for traveller sites (2012)”, namely:

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

31. The test whether a person has a nomadic habit of life was set out by the Court of Appeal in *R v South Hams District Council ex parte Gibb* [1995] Q.B. 158. In summary, a person must be shown to be, or have been, travelling from place to place (even with a permanent residence) for an economic purpose (i.e. in order to find work). Therefore the relevant question for the court under this ground is whether a reasonable planning authority could conclude that it had sufficient information to show that the applicant had ever travelled from place to place for an economic purpose. The information set out in the officer’s report at paragraph 2.05 did not address whether Mr Smith had ever travelled from place to place for an economic purpose. Indeed it recorded that the Applicant and his wife have lived in the Maidstone area all their lives and wish to stay in the area. There was no evidence at all before the committee as to whether Mr Smith met a key part of the test.
32. **The Defendant’s Submissions:** The Defendant submits that again this ground relies on an unrealistic, legalistic and unduly prescriptive approach to an officer’s report. The level of detail in such reports is for officers to decide. The members and officers of this borough have extensive experience of cases involving traveller sites and of the shortfall in the provision of such sites. It is difficult for a council to challenge the status of a gypsy or traveller and if asked the applicant could easily assert that he had travelled from place to place for an economic purpose either as a child with his family or once he began working or that he intended to do so in the future. The Council took account of the circumstances of the development the subject of the application which are typical of traveller site developments in England, namely where the applicant and his family occupied a mobile home on an existing traveller site, which itself was occupied by Mr Perfect whose gypsy status was well established and that the application typically sought retrospective permission for the retention of a mobile home and its residential use with the stationing of a touring caravan and the use of an existing building as an amenity block.

Discussion:

33. The question to be asked by the court is whether the inquiry made by the planning authority was so inadequate that no reasonable planning authority could suppose that it had sufficient material available upon which to make its decision to grant planning permission and impose conditions: see *R (on the application of Hayes) v Wychavon District Council* [2014] EWHC 1987 (Admin). The amount of detail to be included in a report to a committee is a matter for the officer. The officer referred to the correct definition of gypsy status in his report at paragraph 7.14 and his judgment was that “the status of the applicant as a gypsy is accepted”. In a borough where there had already been a number of applications for planning permission for gypsy sites, not least in the immediate area of this application site, it is unreasonable to assume that the officer putting that view before the committee was unaware of the meaning of the phrase “a nomadic habit of life”. Furthermore, the surrounding circumstances all tended to support the view that the applicant is a gypsy. In my judgment the

committee were entitled in these circumstances to rely on the view expressed to them by their professional officer and that in those circumstances they had sufficient material before them to reach their judgment that the applicant was a gypsy.

Ground 4:

34. **The Claimant's Submissions:** The Claimant submits that the Council erred in law in failing to have regard to the evidence base for the emerging Local Plan, which had ruled out allocating the Perfect Place site (and therefore this application site) for development as a gypsy and traveller site. The Sustainability Appraisal for the emerging plan had assessed the Perfect Place site as "not in easy access to a cycle route, train station, bus stop, primary or secondary school, post office, GP service or the Maidstone Urban Area." The Appraisal concluded: "For the sites which were not selected for allocation the harm resulting from the development was not considered to be outweighed by the scale of the need for additional pitches."

35. By contrast the officer's report on the application for planning permission had said this under the heading "Sustainability":

"Regarding whether the site is sustainably located i.e. well placed in relation to public transport and local services, compared to many gypsy and traveller sites this site occupies a relatively sustainable location with Staplehurst just over 1.5 kilometres to the west. Given this and the presence of adjoining gypsy and traveller sites it is not considered the proposal fails on sustainability grounds."

36. It is accepted by the Defendant that the committee considering the application did not have this material from the Sustainability Appraisal drawn to their attention. There is a real possibility they would have reached a different decision if this material had been put before them because the need for gypsy sites was seen as justifying this site in the countryside and the committee might well have reached a different view on that issue if they were aware that more sustainable sites could meet the need.

37. The Claimant acknowledges that the Sustainability Appraisal was assessing the sustainability of reasonable alternatives in order to inform the plan making process and so to inform the allocations of land to meet local needs over the plan period whereas the committee considering the application had to determine primarily whether the proposal was in accordance with the development plan and in that exercise no comparative assessment was necessary. However, the officer's report did compare the application site with other gypsy and traveller sites in reaching its conclusions and the Sustainability Appraisal was not just a comparative exercise as it did provide assessments of individual sites.

38. Therefore the Claimant submits that this evidence base for the emerging Local Plan was material to the question of the sustainability of the application site and the Council erred in not taking it into account in deciding to grant planning permission.

39. **The Defendant's Submissions:** The Defendant submits that the Claimant is wrong to assert that the conclusion in the officer's report that the site occupies a relatively sustainable location compared to many gypsy and traveller sites is contrary to the findings of the Sustainability Appraisal because that appraisal itself concludes that "Most of the gypsy and Traveller site options (including allocated sites) perform very

poorly in terms of access to local services and public transport.” An appeal decision in relation to the adjoining Parkwood Stables site in 2013 had not seen sustainability as a reason for dismissing that appeal. Planning permission had already been granted in relation to the Perfect Place site so it would be perverse to refuse permission on the Blossom site on the basis of sustainability. The Committee were not significantly misled by the omission of express references to the evidence base of the emerging Local Plan. In any event, given the poor sustainability of most of the gypsy and traveller sites, sustainability whether comparative or individually was not going to be decisive in the planning balance so the committee would reach the same decision to grant planning permission even if the Sustainability Appraisal was expressly put before them.

Discussion:

40. In my judgment given that permanent planning permission had been granted in 2014 on the Perfect Place site which included the application site and given that the Sustainability Appraisal had itself recognised that most of the gypsy and traveller sites in the borough were poorly located in relation to transport and services, it cannot be said that the committee were significantly misled on the issue of sustainability by the absence of any reference to the evidence base for the emerging local plan. Furthermore these local members would have been well aware of local transport provision and where local facilities were to be found. They were well placed to decide whether the application site was in a sufficiently sustainable location to justify the grant of planning permission.
41. This ground therefore fails.

Ground 5:

42. **The Claimant’s Submissions:** Regulation 7 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (“the EIA Regulations”) provides as follows:

“7. Applications which appear to require screening opinion

Where it appears to the relevant planning authority that—

- (a) an application which is before them for determination is a Schedule 1 application or a Schedule 2 application; and*
- (b) the development in question has not been the subject of a screening opinion or screening direction; and*
- (c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,*

paragraphs (4) and (5) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).”

43. Paragraph (5) of regulation 5 provides:

“An authority shall adopt a screening opinion within 3 weeks beginning with the date of receipt of a request made pursuant to paragraph (1) or such longer period as may be agreed in writing with the person making the request.”

44. In deciding what is the “application” before the planning authority for the purposes of reg. 7(a) of the EIA Regulations, the starting point is to determine the relevant “project” as defined in the Environmental Impact Assessment Directive 2011/92/EU (“the EIA Directive”): see decision of the Court of Appeal in *Burridge v Breckland District Council* [2013] EWCA Civ 228 at para. 45.
45. At the screening stage, a project should not be considered in isolation if in reality it is properly to be regarded as an integral part of an inevitably more substantial development: *R v Swale BC ex parte RSPB* [1991] JBL 39. The underlying principles of European case law and the aims of the EIA Directive indicate that “project” in this context must be interpreted broadly.
46. The Council has before it a number of pending applications for gypsy developments relating to the land immediately surrounding the Site. The Claimant contends that for the purposes of the EIA Directive, these applications all form one project. In particular the following matters are relied upon: (i) the applications are all for the same development (ii) the applications are all made by members of the local gypsy community (iii) a number of the applications arise from the sub-division of the Perfect Place site (iv) the Council is relying on the cumulative effect of the developments (now before it as retrospective applications) to claim that the character of the area has changed (see Ground One above).
47. It is submitted that, considering this application together with the other pending applications for the same “project”, the application before the Council was a “Schedule 2 application” and therefore the Council should have issued a screening opinion. This is because the cumulative area of all of the pending applications relating to this area is above 5 hectares: see Schedule 2, Column 1, para. 10(b) of the EIA Regulations read together with Column 2.
48. The Claimant therefore submits that the grant of planning permission is unlawful, as the Council has:
 - i) Failed to consider whether the development was EIA Development and therefore whether it was development to which regulation 3 of the EIA Regulations applied (as in *R. (on the application of Birch) v Barnsley MBC* [2010] EWHC 416 (Admin) where planning permission was quashed for failure to consider whether development was Schedule 2 development – see para. 53).
 - ii) Granted planning permission for Schedule 2 development without carrying out a screening opinion, and therefore in the absence of a written “determination” available to the public under Article 4(2) of Directive 2011/92/EU that EIA was not required (as in *R (Aldergate Projects Ltd) v Nottinghamshire County Council* [2008] EWHC 2881 (Admin), where planning permission was quashed for failure to carry out a written screening opinion – see paragraph 36). The planning permission should be quashed. The Claimant has not

received the “substance” of its rights under the EIA Directive: see the test put by Richards LJ in *Ashdown Forest Economic Development LLP v Wealden District Council* [2015] EWCA Civ 681 at §52. Alternatively, it is not highly likely that the outcome would not have been substantially different had the application been screened: section 31(2A) Senior Courts Act 1981.

49. **The Defendant’s Submissions:** It was for the local planning authority to determine whether this application was for planning permission for EIA development and it was not because it did not form part of any larger “project”. The development for which planning permission was sought was not an integral part of more substantial development. There was no one project under single control. The other applications all related to minor developments which neither individually nor cumulatively were likely to have a significant effect on the environment. So the Claimant has not established that the “substance” of the rights guaranteed by the EIA Directive has been denied.
50. **Discussion:** I consider that the Council acted reasonably in determining that this application was not a Schedule 2 application. If it is for the court to determine that matter, I too would decide that the application before the Council was not a Schedule 2 application. This application did not in any meaningful way form part of one project with the other pending applications on the nearby sites. It was not an integral part of the development on those other sites. Each of those sites was under the control of the individual occupier and applicant. It would be wholly unreasonable to treat them as one project because each of the applicants was a member of the gypsy community. The sites to the north were not part of the Perfect Place site. And to look at a number of individual sites cumulatively in order to determine the nature of the local rural character is not to treat all of those sites as one project. Looked at individually, as it should be, the application site did not exceed any relevant threshold for Schedule 2 development set out in the 2011 Regulations.
51. This ground also fails.

Discretion:

52. This claim therefore succeeds under Ground 1 alone. I do not exercise my discretion not to quash the planning permission because in my judgment there is a real possibility that if the members of the committee had been made aware of the unlawful nature of three of the sites fronting onto Maplehurst Lane and that the fourth site had a personal planning permission they would have reached a different decision. In particular they might have decided to grant a temporary planning permission in order to see what decisions were taken on the pending applications in respect of the sites in unlawful use. So in terms of section 31 (2A) of the Senior Courts Act 1981 I am not satisfied that it would be highly likely that the outcome would not have been substantially different if the committee members had been provided with the relevant information about the status of the nearby sites.

Conclusion:

53. The decision to grant planning permission must be quashed on that ground.
54. I invite the parties to agree the relevant order on that basis.

Agenda Item 19



50 m
100 ft

15/509961 - Land At Church Street And Heath Road
Scale: 1:2500
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REPORT SUMMARY

REFERENCE NO - 15/509961			
APPLICATION PROPOSAL Erection of 41 no. residential units together with associated access, parking and landscaping			
ADDRESS Land at Church Street and Heath Road, Boughton Monchelsea, Kent			
RECOMMENDATION Grant Planning subject to conditions and S106			
SUMMARY OF REASONS FOR RECOMMENDATION The development is proposed in a sustainable location, which immediately adjoins an existing settlement and is not considered to result in significant planning harm. Given these issues and the fact the site is allocated for housing within the submitted version of the Local Plan, the low adverse impacts of the development are not considered to significantly outweigh its benefits. As such the development is considered to be in compliance with the National Planning Policy Framework and this is sufficient grounds to depart from the Local Plan.			
REASON FOR REFERRAL TO COMMITTEE Contrary to relevant saved policies in adopted Local Plan (2000)			
WARD Boughton Monchelsea	PARISH COUNCIL Boughton Monchelsea	APPLICANT Fernham Homes AGENT DHA	
DECISION DUE DATE 24/02/17	PUBLICITY EXPIRY DATE 21/4/17	OFFICER SITE VISIT DATE Various	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
Application No.	Proposal	Decision	Date
86/2022	Outline application for 17 detached dwellings	Refused	29/4/1987

MAIN REPORT

1.0 INTRODUCTION

- 1.1 The proposal is for a 41 residential unit development situated on the southern edge on the village of Boughton Monchelsea.
- 1.2 The planning application was made in November 2015. In order to address objections, and as a consequence of negotiation, the planning application has been subject to a number of amendments.

2.0 DESCRIPTION OF SITE

- 2.1 The site lies at the junction of Church Street and Heath Road (B2163) on the south side of Boughton Monchelsea and extends to approx. 1.27ha. The site has been in agricultural use and is currently fallow. It is roughly rectangular with a frontage to Heath Rd of approx. 160m. The site is bounded to the north by existing housing development in Lewis Court Drive and by lower density housing on the frontage to Church Street. The 2 main road frontages are defined by mature hedgerows approx. 2m high. There is a strong boundary hedge to the Heath Road frontage except for an existing field gate.

2.2 The site is adjoined to the north (on Church Street and Lewis Court Drive) by existing housing and also to the east by dwellings that front Heath Road. The NE corner of the site adjoins existing woodland. To the west is the recreation ground and village hall. To the south side of Heath Road set back from the junction of Heath Road and Church Hill is the listed Lodge to Boughton Monchelsea Place. The woodland opposite the site is part of the Registered Historic Park to Boughton Monchelsea Place. The Boughton Monchelsea Primary School is diagonally opposite the site.

3.0 PROPOSAL

3.1 The full planning application was submitted for 41 residential units, with the following dwelling mix:

- 7 no 3 bed market houses
- 14 no 4 bed market houses
- 4 no 5 bed houses
- 8 no 2 bed affordable maisonette
- 8 no 3 bed affordable houses

3.2 The proposal includes 74 allocated parking spaces, 8 visitor parking spaces and 27 garage parking spaces. Excluding garages, 8 houses have 1 car parking space and 33 have 2 car parking spaces. Cycle parking is proposed within timber sheds.

3.3 The proposal consists of an open space at the south west corner of Church Street and Heath Road, overlooked by seven substantial two storey detached and semi-detached dwellings. The remainder of the dwellings are two and 2 ½ (rooms in roofs) storey detached and semi-detached houses, with one block of four no. two storey maisonettes on the eastern side of the main access road. The northern element of the site is proposed as an east-west row of houses, backing on to the back gardens of 73-89 Lewis Court Drive. To the south of this element are two perimeter blocks, with the north west corner of the site backing onto 71 Church Street,

3.4 The means of access for vehicles is from Heath Road. This access road has east and west running 'arms' to the north of the Heath Road hedge, serving the houses immediately to the north. The access road continues north into the heart of the site, with a further eastern 'arm' serving a further 14 units, including the affordable housing. The main access road then turns west, servicing the remainder of the houses, including the houses in the south west corner.

3.5 The design of the properties is relatively traditional in form, with the use of pitched tile roofs, bay windows, brick and tile hanging, pitched roof porches and pitched dormer windows. The elevations are typically detailed with brick plinths, soldier courses and timber eave detail, with protruding rafters a feature on some properties. That said there are a couple of features which are not traditional: the provision of a chimney within a ground floor bay flanked with windows: a feature of the two properties either side of the entrance to the site from Heath Road and of three houses facing onto the open space in the south west corner. Secondly the three no. 2 ½ storey dwellings facing onto Heath Road and one facing onto the south west corner, include an under-eaves half width balcony.

3.6 The existing hedges on Heath Road are largely retained, with gaps provided for the main vehicle access into the site and to allow pedestrian access at key points.

3.7 The visibility of the proposed development would be as follows:

- From the north there would be clear views of the new houses in the northern part of the site from 8 properties along Lewis Court Drive, and more limited and filtered views from 2 houses on Church Street. Most views would be from upper floor windows, but some of the houses on Lewis Court Drive also have some filtered views from ground floor windows. There would be no significant views from any further to the north, as the houses closest to the site provide an effective screen, though there may be some glimpses between the existing houses.
- From the east there would be some short distance views from the edge of the adjoining woodland (though there is no public access to the wood), and also open views from windows in the gable end of the adjoining property to the east (Cobtrees), and more limited and filtered views from one further property to the east of that.
- From the south east there would be no significant views from the public footpath which runs to the south, as the intervening vegetation provides an effective screen.
- From the south there would be short distance views of the new houses in the southern part of the site above the roadside hedgerow from the adjoining footway and also for occupants of vehicles passing along the road. There would be clear views into the site at the proposed access point. From further to the south, there would be no significant views from within the area of coppiced woodland to the south of the road, as they are generally screened by intervening vegetation.
- From the west there would be views above the roadside hedge and also across the proposed open space, for car drivers and pedestrians passing along Church Street. There would also be some more limited views from further to the west, within the recreation ground and around the village hall.

3.8 The proposal has been subject to a number of amendments, the most recent being:

- The reduction in the use of weatherboarding to four properties.
- The strengthening of landscape buffers to the north and east, including the safeguarding of root protection areas of substantial tree in the south east corner of the garden of 71 Church Street and 75 Lewis Court Drive.
- The block of 2 bedroom maisonettes have been oriented to face the principal north-south access road.
- Reorientation of the units and parking layout for plots 28-35 and materials for plots 28 – 31 have been changed to all brick (rather than brick and weatherboard).
- Changes to the house type of plots 37 - 41 along the frontage – reduced from a 2.5 storey to 2 storey dwelling.
- There are minor changes to elevations and house types.
- There has been verbal agreement from the agents regarding the use of Kentish ragstone within the development.
- Discussions regarding the affordable housing provision and tenure are ongoing and the Committee will be updated on progress.

4. POLICY AND OTHER CONSIDERATIONS

4.1 The following policy considerations are relevant in this case:

- The National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Development Plan - The saved policies of the Maidstone Borough Wide Local Plan (2000) The following saved policies are relevant:
 - ENV6 – Landscaping, surfacing and boundary treatment
 - ENV28– resists development in the countryside

- which harms the character and appearance of the area
- ENV32 – resists development which extends the defined urban area to avoid coalescence between the southern villages and the Maidstone Urban Area.
- T13 – Seeks to ensure appropriate parking provision.
- T21 - Accessibility of new developments
- Minerals and Waste Plan
- Affordable Housing DPD 2006: Policy AH1
- Integrated Transport Strategy: cycling.

4.2 The site adjoins the present built up extent of Boughton Monchelsea and was included as a housing allocation (H1(55), now H1 (53)) in the Draft Local Plan Regulation 19 Consultation (February 2016 The EiP Inspectors' Interim Report (December 2016) ratified the housing allocation. Other Submitted draft Local Plan Policies which apply include:DM1, DM2, DM3, DM5, DM11, DM12 DM13, DM22, DM23, DM24, DM27.

4.3 **Policy H1(53) – Land at the junction of Church Street and Heath Road Boughton Monchelsea**

Planning permission will be granted if the following criteria are met.

Design and Layout

1. *The proposed layout respects the setting and relationship of The Lodge (to Boughton Monchelsea Place) to Heath Road and the junction with Church Street/Church Hill and maintains a set-back of a minimum of 15m for development at the junction of Church Lane and Heath Road.*
2. *The proposed layout retains the existing hedgerow to Heath Road and provides an appropriate buffer to the existing woodland in the NE corner of the site.*
3. *Development proposals will be of a high standard of design and sustainability incorporating the use of vernacular materials*

Landscape

4. *The development proposals are designed to take into account the results of a landscape and visual impact assessment undertaken in accordance with the principles of current guidance.*

Drainage and Flood risk

5. *Development will be subject to the results and recommendations of a detailed flood risk assessment and a surface water drainage strategy that demonstrates that surface water run-off from the site will not lead to an increased risk of flooding along the River Loose at The Quarries and downstream from The Quarries.*

Heritage impact

6. *Development will be subject to the result and recommendations of a Heritage Impact Assessment that addresses the impact of the development on the setting of The Lodge and the Registered Historic Park to Boughton Monchelsea Place.*

Ecology/biodiversity

7. *Development will be subject to the results and recommendations of a phase 1 habitat survey and any species specific surveys that may as a result be recommended together with any necessary mitigation/enhancement measures particularly in relation to the adjacent woodland to the NE corner of the site.*

Community facilities

8. *Appropriate contributions towards community infrastructure including improvement to medical facilities in Boughton Monchelsea Parish will be provided where proven necessary.*

Highways

9. *Linton Crossroads junction improvements.*

Utility Infrastructure

10. *A connection is provided to the local sewerage system at the nearest point of adequate capacity, in collaboration with the service provider.*

5.0 LOCAL REPRESENTATIONS

- 5.1 There have been 10 individual objections to the application for the following main reasons:

- Encroachment of village into open countryside, contrary to ENV32
- Conflict between the planning constraint of H1(55) and the protection of Hedgerows and Road Safety
- Lack of a separation buffer depth of 40 metres of woodland
- Loss of trees and woodland habitat
- Additional traffic congestion on overloaded road system
- Lack of local services
- Unsustainable location
- Lack of carparking
- Loss of amenity – overlooking, loss of privacy, overshadowing.
- Flooding
- Loss of play area, walks etc.
- Lack of integration of social housing
- More suitable sites available elsewhere
- Damage to ecology

6.0 CONSULTATIONS

6.1 Boughton Monchelsea Parish Council:

The Parish Council support the proposal, with the following comments on the most recent amendments:

1. Concerns about amount and design of car parking;

2. Require railings and gates around public open space in south west corner for road safety;
3. Weatherboarding should only be used on property numbers 8, 19 and the front of numbers 38 and 40
4. Don't want additional lighting;
5. Made the following comments about materials:
 - a) Plastic weatherboarding should not be used
 - b. Clay roof tiles should be used, as the typical Kent vernacular.
 - c. The use of ragstone detailing on some of the properties facing onto the open space should be considered
 - d. Timber fences should not be used in public facing boundaries
 - e. conventional solar panels should not be installed on any of the properties, where these would be visible to the public
 - f. High quality paving material should be used for the road and footways within the development
 - g. Any cycle storage should comprise permanent structure, not timber.
 - h. Good quality street furniture should be used.

6.2 **KCC Highways** – No objection, request provision of a pelican crossing to replace the existing zebra crossing, suggest extension of double yellow lines on the entire frontage of the site. No contribution sought for Linton Crossroads due to Section 106 pooling restrictions. It is not considered that a development of this scale could justifiably support a cycle way to Linton. Conditions are suggested regarding control of construction vehicles and retention permanent car parking.

6.3 **KCC Infrastructure contributions** –

Primary Education: there is sufficient capacity within the locality to admit the need arising from the housing development, therefore no contribution is required.

Secondary and other KCC contributions (apart from library contribution): Section 106 pooling restrictions mean that KCC have not sought contributions for secondary education, youth and adult education, social care or Linton Crossroads improvements.

Library contribution is sought for additional book stock.

KCC have provided the following context behind the above position:

- In Maidstone KCC have several Secondary School projects; many have been broken down into phases:
- There have been a substantial number of large planning applications in and around Maidstone in the last few years and regrettably at the time of assessing this application there were not slots available to seek Secondary from this development; hence Kent Education made the decision not to seek Secondary from this development.
- Regrettably KCC have no way of predicting: what applications will come forward, when they will be submitted, and the number of units within developments. KCC therefore have to take a view at the time each application is submitted based upon available projects at that time. KCC Education are constantly reviewing the need for places to ensure sufficiency of provision in accordance with their role as the Local Education Authority in Kent. There are ongoing dialogues with individual schools and Academy's as well as

Government Education Funding Agency. As more possibilities are identified, these have been included within the projects above.

- At the time of this application, there were not any Secondary obligation slots available for this application. Thus without a CIL in place in Maidstone Borough – despite there being a Secondary need - KCC were unable to seek a contribution.
- Projects for other services like Social Care, Youth and Adult Education are more limited and are restricted to schemes of 50 units or more. KCC must therefore retain the 5 obligation slots for the largest developments which create the biggest impacts upon those services.

6.4 **KCC Ecology** – no objection, condition suggested to enhance biodiversity.

6.5 **MBC Housing** – The proposed amount of affordable housing (8 no 2 bed flats and 8 no 3 bed houses), approximate 40% of the total scheme dwellings, is broadly acceptable in policy terms as is the location of the affordable units, as shown on the amended tenure layout plan. The tenure split (a 60/40 split in favour of affordable rented accommodation under the adopted policy approach, and a 70/30 split under DM13) is yet to be finalised, partly because there is an opportunity for an additional number of Shared Ownership units to be provided and negotiations with a Registered Provider are ongoing. It is suggested that the issue of tenure split are addressed through the use of delegated powers in relation to S106 negotiations.

6.6 **MBC Landscape** - The applicant's Landscape and Visual Assessment, is considered to be acceptable in principle, as is the Tree Report. Concern is expressed in relation to the following issues:

- the layout is likely to give rise to post development pressure in relation to the proximity of trees T3, T12, T14, T15, T16, T17 and T18 to plots 16, 27
- The provision of visibility splays and other access points leading to removal of sections of existing hedge.

If permission is recommended to be granted then the following conditions are suggested:

- detailed landscape conditions which require implementation, maintenance and long term management details.
- The provision of a revised tree protection plan to reflect the latest planning layout.

6.7 **MBC Environmental Health** – No objection, suggest condition regarding emissions from traffic.

6.8 **West Kent Clinical Commissioning Group** - £31,608 required for health facilities.

6.9 **UK Power Network** - No objections

6.10 **Crime prevention** – concerns over pedestrian access, flat porches and defence able space.

6.11 **Parks and Leisure** – no objections. In-lieu Section 106 payment of £950 per dwelling required in order to mitigate lack of policy compliant open space.

6.12 **Archaeology** – Site is in an area of iron- age activity, condition suggested

- 6.13 **KCC drainage** – development acceptable subject to condition.
- 6.14 **Environment Agency** – Development lies in Flood Zone 1 and on a Principle Aquifer. The application has a low environmental risk as both foul and surface water drainage is being directed to a main sewer.
- 6.15 **MBC Conservation** – no objection. There is considered to be no detrimental effect on the Grade 2 listed Lodge building or historic park.

7.0 BACKGROUND PAPERS AND PLANS

- 7.1 The application included the following documents: Transport Statement, Flood Risk Assessment, Protected Species and Mitigation Report, Habitat Survey and protected Species Assessment, Preliminary Arboricultural Report, Draft S106 Agreement.
- 7.2 Drawing numbers: 121403-FER-01 G; 121403-FER-02F; 121403-FER-03 F; 121403-FER-04 F; 121403-FER-05 F; 121403-FER-06; 121403-FER-07 H; 121403-FER-PER01 F; 121403-FER-SS01 G; 121403-FER-SS02 E; 121403-FER-B-E1 C; 121403-FER-B-E2 C; 121403-FER-B-P1 B; 121403-FER-C-E1 E; 121403-FER-C-P1 C; 121403-FER-D-E2 A; 121403-FER-D-P1 B; 121403-FER-E-E1 D; 121403-FER-E-E2 C; 121403-FER-E-E3; 121403-FER-E-P1 C; 121403-FER-G-E1 B; 121403-FER-G-E2 C; 121403-FER-G-P1 C; 121403-FER-L-E1 B; 121403-FER-L-E2; 121403-FER-L-P1 B; 121403-FER-F-E1 A; 121403-FER-F-E2 A; 121403-FER-F-E3; 121403-FER-F-P1 A; 121403-FER-AA-E1 A; 121403-FER-AA-E2 A; 121403-FER-AA-P1 A; 121403-FER-AA-P2 A; 121403-FER-AB-E1 B; 121403-FER-AB-P1 A; 121403-FER-2BM-E1 D; 121403-FER-2BM-E2 D; 121403-FER-2BM-P1 D.

8.0 APPRAISAL

8.1 Main planning issues

The main planning issues are considered to be:

- The principle of residential development
- Visual impact;
- impact on residential amenity;
- whether the proposed layout, siting and form of development is appropriate in this location;
- impact on highways and road safety;
- the provision of infrastructure.

8.2 Principle of residential development

Local planning policies – weight

- 8.21 Paragraph 215 of the NPPF states that, *“due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*
- 8.22 Saved policy ENV28 seeks to protect the countryside by restricting development beyond identified settlement boundaries. In general terms, this policy is consistent with the NPPF, which at paragraph 17, recognises the intrinsic character and beauty of the countryside. However, the Submitted Local Plan evidence base identifies objectively assessed needs for additional housing over the plan period 2011-2031

(which will be discussed in detail below), which the draft MBLP addresses, in part, by way of site allocations for housing outside existing settlement boundaries. The draft MBLP was submitted to the Secretary of State for Independent Examination on 20 May 2016 and examination hearings have been completed. The draft MBLP will deliver the development (and infrastructure to support it) to meet objectively assessed over the plan period.

8.23 The existing settlement boundaries defined by the adopted Local Plan (2000) will be revised by the MBLP to deliver the development necessary to meet identified needs in accordance with the site allocations in Submitted Local Plan Policy H1. Consequently, although saved policy ENV28 continues to be part of the Development Plan as the settlement boundaries in the adopted Local Plan will not be retained in their current form and would unduly restrict the supply of housing in the Borough contrary to paragraph 47 and 49 of the NPPF, that policy should be given reduced weight. While the anti-coalescence policy ENV32, is not being taken forward in the Submitted Local Plan, following a recent Supreme Court judgement regarding paragraph 49 of the NPPF, it should be given full weight.

8.24 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)."*

8.25 Inevitably any major development on a greenfield site will clearly have an impact upon the environment. In this respect at paragraph 152 the NPPF advises that,

"Local planning authorities should seek opportunities to achieve each of the economic, social and environmental dimensions of sustainable development, and net gains across all three. Significant adverse impacts on any of these dimensions should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where adverse impacts are unavoidable, measures to mitigate the impact should be considered. Where adequate mitigation measures are not possible, compensatory measures may be appropriate."

8.26 In allocating the site, the Council considers its use for housing is appropriate subject to the criteria outlined within Submitted Local Plan policy H1(55) (now H1 (53) as amended by the modifications.) to mitigate the impact as far as possible.

8.27 In conclusion the weight to give the Submitted Local Plan and the draft site allocation policy H1(55) (now H1 (53)) is considered to be significant and clearly indicates that the Council considers a housing allocation at the site is appropriate subject to suitable mitigation.

Principle of Development

8.28 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.

8.29 The application site is to the south of the defined settlement boundary of Boughton Monchelsea. It is therefore upon land defined in the adopted Local Plan as countryside.

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

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

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

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

8.31 The proposal does not fit within the above exceptions of policy ENV28. The key consideration therefore is the amount of harm that the proposal is likely to cause, which will be considered further as part of the balancing exercise in section 9 of this report.

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

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

8.33 Furthermore, paragraph 49 of the NPPF is clear that relevant policies for the supply of housing *“should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”.*

8.34 The Council has undertaken a Strategic Housing Market Assessment (SHMA) which was commissioned jointly with its housing market area partners: Ashford and Tonbridge & Malling Borough Councils. A key purpose of the SHMA is to quantify how many new homes are needed in the borough for the 20 year period of the emerging Maidstone Borough Local Plan (2011 to 2031).

8.35 The Maidstone Borough Local Plan was submitted to the Secretary of State for examination on 20 May 2016, and the Plan allocates housing sites considered to be in

the most appropriate locations for the borough to meet its objectively assessed needs. The Housing Topic Paper, which was submitted with the Local Plan, demonstrates that the Council has a five-year supply of deliverable housing sites in accordance with paragraph 47 of the NPPF. The independent examination into the Local Plan commenced on 4 October 2016, and the closing session for the hearings was held on 24 January 2017. The examination itself will close following further public consultation on modifications to the Local Plan and receipt of the Inspector's final report. Adoption of the Plan is expected in summer 2017.

- 8.36 The Inspector's interim report proposes additional modifications relating to the deletion or amendment of allocated sites, or to the phasing of allocated sites and broad locations. The report does not identify a need for further housing site allocations. In advance of public consultation on the formal modifications to the Local Plan, the interim findings have been applied to the borough's 20-year and five-year housing land supply tables which were set out in the Housing Topic Paper. The updated tables (examination document reference ED116) reveal a strengthened five-year supply position as at 1 April 2016, from 5.12 years to 6.11 years. The figures are not definitive because of the need for consultation on modifications in respect of the reduced housing need and proposed amendments to specific allocated sites, but they reaffirm a robust five-year housing land supply position and justify the assumptions being made. A full five-year housing land supply update will be undertaken through the annual housing information audit to produce the 1 April 2017 position.
- 8.37 Policy SP12 of the emerging local plan relating to Boughton Monchelsea Larger Village, sets out that the village can accommodate limited housing growth with supporting infrastructure providing approximately 193 new dwellings on six allocated sites. The application site is allocated under Policy H1(55) (now H1 (53) of the emerging plan for development of approximately 40 dwellings and sets out the criteria to be met whereby planning permission would be granted.

8.4 Visual and Landscape Impact

- 8.41 The site is in a prominent location on the south side of the village and is clearly visible from 2 road frontages in Heath Road & Church Street. The site is bordered on two sides by existing housing and will result in a slight increase in the existing moderately suburban character of this part of the village.
- 8.42 Some degree of existing screening is provided by established hedgerows which define the western and southern site boundaries. The existing hedges are largely retained apart from breaks to allow access and reinforced by additional landscaping around site boundaries. I consider these breaks to be proportionate considering road safety considerations and the need for the proposal to present an attractive outlook. The ecological advice is that the proposal is acceptable in terms of its impact on ecology and biodiversity. I concur with that advice.
- 8.43 The Maidstone Landscape Capacity Study: Site Assessments, January 2015 considers that the capacity of the landscape to accommodate housing on this site is high. The relevant points are listed below:

Landscape Character Sensitivity: Low

- *The site is in arable use and is isolated from semi natural vegetation*
- *The surrounding area is generally urban in character so that the site lacks a rural feel and is not characteristic of the wider countryside*
- *The busy road frontage reinforces the urban character*

Visual Sensitivity: Moderate

- Generally well enclosed by hedgerows, with a few sensitive residential receptors consisting of the adjoining housing on the northern and eastern boundaries which have close views of the site, although often filtered by hedges and garden trees
- Limited scope for mitigation because of the small size of the site, although further tree planting could help filter views

Landscape Value: Low

- The site has no landscape designations and the proximity to housing and the arable use reduces the sense of remoteness, wildness or tranquillity
- The site is generally of low scenic value and cultural significance
- The site has very limited potential to be of conservation interest
- Locally valued as a small parcel of farmland in an otherwise urban setting

Opportunities and Constraints

- Site relates closely to existing edge of development to the north
- Capacity for housing if sensitively designed with potential to infill around and link to existing development
- Strong existing boundary vegetation
- Opportunity for tree planting along Heath Road to soften the frontage

Mitigation

- Retain existing trees and boundary vegetation
- Reflect scale and mass of surrounding housing
- Plant trees to reduce visual impacts and soften the road frontage.

- 8.44 The proposal would be visible from some views but is not considered intrusive considering the above issues. The landscape of and around the site has been assessed as of low sensitivity to development of the type proposed. The degree of change brought about by the development would also be low. The anticipated overall effects on the local landscape would therefore be insignificant, as the proposals generally fit the landform and scale of the landscape, would have limited effects on views, can be mitigated to a reasonable extent and avoid effects on designated landscapes
- 8.45 The historic building, the Grade two listed Lodge to Boughton Monchelsea Place is situated directly opposite the SW corner of the site and the proposal is considered to respect its setting as the development is set back from the south western corner. The relationship of the proposal with the Lodge is considered to result in no harm and is acceptable in terms of landscape impact and conservation and the Conservation Officer concurred with this assessment.
- 8.46 The concerns expressed by the Landscape officer in regard to root protection of trees in the proximity of plots 16 and 27 have been largely addressed through a subsequent revised layout and a tree protection condition is suggested.
- 8.47 The treatment of the SW corner of the site at the junction of Heath Road and Church Street is particularly important as it forms the southern entrance to village. The layout includes an area of open space on the SW corner which is considered to provide a suitable entrance to the village.
- 8.48 The proposed scale of the buildings is considered appropriate for the site in being 2-2 ½ stories and the elevational treatment is considered appropriate to the location and vernacular of the village. Detailed points raised as part of the recent consultation are addressed through condition, including materials and boundary treatment

8.49 The development criteria set out in the Draft Local Plan gives particular weight to a high standard of design, use of good quality traditional materials and a sensitive layout which takes account of the established housing to the north of the site. I consider that, with suitable conditions, the proposal accords with these requirements.

8.5 Impact on residential amenity

8.51 Particular care is required to minimise the impact on the adjoining residential development in Lewis Court Drive. There is at least a minimum separation distance of 20m between the proposed and existing properties in this part of the site which is considered acceptable to mitigate the impact on the amenities of adjoining residents. The proposed houses are closer to 71 Church Street and Cobtrees on Heath Road but the orientation of windows as well as boundary planting will limit any significant negative impact on residential amenity.

8.52 The impact on new occupiers has been minimised through a combination of distance, with in most cases a minimum of 20m back-to-back distances, and the orientation of windows to avoid direct overlooking.

8.53 The existing boundary treatment along the northern site boundary is inadequate, defined by a 2m high timber fence which is generally in poor condition. Additional buffers are proposed along the boundaries of the site with 71 Church Street, 89 Lewis Drive and Cobtrees to the east. While this will help to mitigate any significant loss of privacy and amenity, the boundary treatment including fences and landscaping is suggested to be covered by a details condition to ensure the above issues are addressed.

8.6 Proposed Siting and Layout

8.61 The layout indicates a density of 31 dwellings/ha. in accordance with the Draft Local Plan allocation which is generally considered to be appropriate to an edge of village location and reflects the character of the existing development to the north.

8.62 The proposal follows good urban design principles in the following respects:

- Overlooked public open space;
- Active frontages and private backs;
- Minimising of blank walls on principal routes;
- Permeability and legibility in street design;
- Retention of established hedges on Heath Road, and established trees.

8.63 The suggested layout is considered to be acceptable. Adequate privacy, garden space, and surveillance are provided.

8.64 Concerns over the location of footpaths raised by the Crime Prevention Officer is not accepted: it is important that public access to the site and new open space is ensured.

8.65 While according with the H1 (55) (now H1 (53)) requirements for a minimum of 15m setback from the junction of Church Street and Heath Road, the proposal does not meet all the different open space requirements of policy DM22 on site. In such cases the policy provides for the off-site payment to make up the short fall. In this case there is a requirement for £950 per dwelling to be provided in mitigation, which would contribute to the improvement and maintenance of Boughton Monchelsea play area on Church Street.

8.66 The proposed mix of house sizes and types generally accords with the Council's requirements. The provision of approximately 40% affordable housing (16 units) is broadly in accordance with the adopted Affordable Housing DPD and emerging submitted local plan policy but the tenure split has not yet been agreed. In order to comply with DM13, a tenure split of 70/30 in favour of affordable rented housing or an equivalent policy compliant solution is required. The Committee will be updated with current progress on this issue. The location of the affordable housing element, on the eastern side of the site, is considered acceptable, and the layout lends itself to successful housing and landscape management.

8.7 Highways and access

8.71 The original pre-application proposal put forward the main vehicular access to the site from Church Street. This was altered to Heath Road following negotiations, input from the Parish Council and representations from the Highways Authority, on the basis that the Church Street access would result in a loss of on-street parking near the existing primary school. The proposed access from Heath Road is considered acceptable, and the vision splays are adequate. It strikes the correct balance between road safety and hedge retention. The amount and layout of car parking is policy compliant and considered acceptable. Whilst road safety issues have been raised by objectors, these have not been sustained and have not been accepted by the Highways Authority. The proposal will not have a severe negative impact on traffic congestion, as confirmed by the submitted transport statement and KCC Highways comments. The suggestion to convert an existing zebra crossing to a pelican crossing does not meet the tests for planning conditions in that I do not consider such a requirements to be necessary, reasonable or in scale with the development.

8.72 The site is considered to be a reasonably sustainable location with both primary and secondary schools are within walking distance from the site, and frequent bus transport within a 17 minute walk.

8.73 The situation with the possible contributions to Linton Cross Roads is as follows. Consultants Mott MacDonald's have designed and costed junction improvements for the cross roads. Four schemes have already contributed towards, or have been earmarked to fund these improvements. In addition the Committee will be aware that there is a current application at Ware's Farm for a major commercial development that, if approved, will be likely to contribute to improvements to this junction. As Members will be aware the CIL regulations limit the number of contributions to 5.

8.74 Given the above and the likely contribution this scheme would be likely to make, it is important that a potential contribution from this site does not jeopardise to opportunity for a larger contribution from a different site. As a consequence I agree with KCC that a contribution towards the improvement to Linton Cross Roads is not required.

8.75 In terms of cycle improvements, the Integrated Transport Strategy does not identify specific requirements that provide an evidence base for securing contributions from this proposal. Actions C1 '*Maintain and further develop a strategic cycle network*', and C2 '*Maintain and further develop cycle routes win rural service centres*', do not identify this area are one requiring investment in cycle network improvements. The provision of a cycle route is not supported or required by KCC.

8.76 Bearing in mind the constraint outline by KCC above, I agree that contributions towards a cycle route would be unlikely to meet the necessary test and is not required in order to make the proposal acceptable in planning terms

8.8 Infrastructure

- 8.81 A development of this scale is clearly likely to place extra demand on local services and facilities and it is important to ensure that the development can be assimilated within the local community. KCC have confirmed that there is sufficient primary school places to meet the needs of the proposal, but contributions for secondary education, Social Care, Youth and Adult Education are not sought due to pooling restrictions. While this is regrettable, I accept that there is no practical mechanism to secure such contributions. KCC have limited their requirements to library contributions to provide bookstock for the mobile library which serves Boughton Monchelsea. In such circumstances I accept that to require contributions other than those for library would not accord with the pooling regulation and would not be sustainable.
- 8.82 In order to address the health care needs likely to be generated by the proposal, the CCG have requested £31,608 for health care facilities and have suggested that improvements to the nearby facilities at Stockett Lane Surgery or the Orchard Medical Centre, Coxheath, would be appropriate. They have confirmed that the provision of a health facility in Boughton Monchelsea is not detailed in their response and is not a need that the CCG has identified as part of their local strategy and plans. Whilst I accept the CCG's views on this issue further investigation regarding the use of the health care contribution within the village, as suggested within the Submitted Local Plan H1 (53) should be carried out in order to fulfil the relevant policy requirement.
- 8.83 The Integrated Transport Strategy (ITS) suggests, in policies C1 and C2, the development of the strategic cycle network and the development of cycle routes in rural settlements. Given the scale of the proposal, I do not consider that that a contribution towards a cycle route would be appropriate or in scale with the development.
- 8.84 In terms of open space provision, £950 per dwelling is to be provided in mitigation for deficiency in relation to policy DM22, which would contribute to the improvement and maintenance of Boughton Monchelsea play area on Church Street.
- 8.85 Affordable housing negotiations are ongoing, as outlined in 6.5 and 8.86. A DM13 policy compliant solution is required and the Committee will be updated on progress on this issue.
- 8.86 The developers are in negotiations with a registered housing provider For this reason I am therefore recommending that the Heads of Terms sets out a minimum affordable provision and mix with a request for delegated authority to agree the final mix should negotiations prove successful on this matter. It is suggested that delegated powers are used to allow further negotiations, providing a minimum of 16 affordable housing units, with a tenure mix of 70/30 in favour of affordable rented accommodation or an equivalent DM13 policy compliant solution.

8.9 Impact on ecology

- 8.91 As required by policy H1 (53), a phase one ecological report was submitted with the planning application. This shows that there is no evidence of the presence of protected species and the site provides little suitable habitat for bats, reptiles and amphibians. The protection and enhancement of existing hedges, boundary planting and trees and well as the timing of any vegetation clearance, is proposed to be covered by condition. The proposed gaps in the existing hedges to provide road and pedestrian access are considered appropriate and do not significantly damage the ecology. KCC

Ecology have not objected and have suggested a condition to ensure ecological enhancements. I consider the proposal acceptable in ecological terms.

- 8.92 There are no objections on the grounds of drainage and archaeology and conditions are suggested to ensure compliance with the relevant KCC responses.

9.0 CONCLUSION

9.01 The proposal represents a development which accords with the vast majority of the requirements within Submitted Local Plan Policy H1(53). While it represents development in the countryside, it is not considered to harm the character, appearance or amenity and consequently and therefore I consider the proposal does not contravene ENV 28. The site is within the southern anti-coalescence belt and thus contravenes ENV32. However notwithstanding that, the Submitted Local Plan allocates the site as housing and ENV32 is not being taken forward in the Submitted Local Plan As a consequence given the advanced nature of the emerging plan, and the principles of development covered earlier in this report, I do not consider the contravention of ENV32 to be a determining factor.

9.02 The proposal provides much needed housing in line with the Submitted Local Plan, which is at an advanced stage and should be given significant weight. The proposal provides economic and social benefits and the environmental impact is limited and proposed to be further mitigated by the use of conditions. Whilst regrettable, I do not consider the lack of social infrastructure as explored in 6.3 and 8.81 dictates that planning permission should be refused in this case.

9.03 I consider that the development is acceptable having regard to relevant national and local planning policy in the NPPF, and the Submitted Local Plan respectively. Accordingly, applying the presumption in favour of sustainable development in paragraph 14 of the NPPF, planning permission should be granted unless the adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits having regard to the policies of the NPPF considered as a whole. It is recommended that planning permission be granted subject to the following conditions and Heads of Terms.

10.0 RECOMMENDATION

10.1 The Head of Planning and Development be given delegated power to grant planning permission subject to the conditions as set out below and the prior completion of a legal agreement, in such terms as the Head of Legal Services may advise, to provide the following:

1. Provision of affordable housing, tenure split and amount to be determined, subject to a minimum of 16 affordable units which will be provided with a tenure split of 70/30 in favour of affordable rented housing or equivalent DM13 policy compliant solution.
2. Financial contribution per dwelling for the provision of funding for health facilities, to be used towards a medical facility within Boughton Monchelsea, or failing that, for Stockett Lane Surgery or the Orchard Medical Centre, Coxheath, based on the following formula: £31611 divided by (41 minus X) where X being the number of affordable housing units.
3. Contribution of £48 per dwelling towards library bookstock provide the number of additional library books required to meet the need generate by the new residents.

4. Contribution of £950 per dwelling for off-site open space provision, £38,950 (£950 per dwelling), for the Boughton Monchelsea play area at Church Street.

10.2 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. Details of landscaping and boundary treatment, including fences and walls within the site, and treatment of existing hedges to be submitted to and approved by the local planning authority prior to development above dpc level on site. Such details shall include maintenance and long term management of existing and proposed landscape, including trees and hedges. All such works shall be carried out in accordance with the approved details.

Reason: to secure appropriate screening and landscaping.

3. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:
121403-FER-01 G; 121403-FER-02F; 121403-FER-03 F; 121403-FER-04 F;
121403-FER-05 F; 121403-FER-06; 121403-FER-07 H; 121403-FER-PER01 F;
121403-FER-SS01 G; 121403-FER-SS02 E; 121403-FER-B-E1 C; 121403-FER-B-E2 C; 121403-FER-B-P1 B; 121403-FER-C-E1 E; 121403-FER-C-P1 C;
121403-FER-D-E2 A; 121403-FER-D-P1 B; 121403-FER-E-E1 D; 121403-FER-E-E2 C; 121403-FER-E-E3; 121403-FER-E-P1 C; 121403-FER-G-E1 B; 121403-FER-G-E2 C; 121403-FER-G-P1 C; 121403-FER-L-E1 B; 121403-FER-L-E2; 121403-FER-L-P1 B; 121403-FER-F-E1 A; 121403-FER-F-E2 A; 121403-FER-F-E3; 121403-FER-F-P1 A; 121403-FER-AA-E1 A; 121403-FER-AA-E2 A; 121403-FER-AA-P1 A;
121403-FER-AA-P2 A; 121403-FER-AB-E1 B; 121403-FER-AB-P1 A;
121403-FER-2BM-E1 D; 121403-FER-2BM-E2 D; 121403-FER-2BM-P1D.

Reason: For the purposes of clarity and to ensure the quality of the development is maintained.

4. No development shall commence on site until a signed S278 Agreement, covering the provision of double yellow lines on Heath Road across the entire frontage of the site and the western edge of the site on Church Street, has been completed. The development shall not be occupied until the highways works covered in the S278 have been completed.

Reason: in the interests of road safety.

5. Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:
i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
ii further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with NPPF section 12.

6. 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 demonstrate that the surface water runoff rate and volume disposed off-site is restricted to that of the existing site without any increase to the on/off-site flood risk. All such works shall be carried out in accordance with the approved details.

Reason: In the interests of sustainable drainage.

7. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained 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.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

8. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

9. All car parking shall be retained and used by residents and visitors of the proposal and should not be occupied by any other person

Reason: to protect the amenity of adjoining occupiers

10. Details of the position of any external meter boxes shall be submitted to and approved by the Local Planning Authority prior to development above dpc level. All such works shall be carried out in accordance with the approved details.

Reason: to ensure a satisfactory external appearance.

11. Details of any proposed external lighting shall be submitted to and approved by the Local Planning Authority and shall only be installed in accordance with those approved details.

Reason: In the interests of visual and residential amenity and to protect ecological habitat.

12. The development hereby approved shall not progress above dpc level until details of how decentralised and renewable or low-carbon sources of energy will be incorporated

into the development hereby approved to provide at least 10% of total annual energy requirements of the development, will be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To ensure an energy efficient form of development and to ensure that such details accord with the need for an satisfactory external appearance of the development. Details are required prior to development commencing to ensure the methods are integral to the design and to ensure that all options (including ground source heat pumps) are available.

13. The bicycle storage shown on drawing number 121403-FER-BS02 for each dwelling shall be completed prior to occupation of the respective dwelling and shall thereafter be retained for that purpose at all times.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety and sustainable transport.

14. Prior to the completion of the development hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. This will include clear ecological enhancement for breeding birds and bats and shall include the provision of bat boxes, bird boxes and generous native planting. The approved details will be implemented and thereafter retained.

Reason: In the interests of ecological enhancement.

15. Prior to the commencement of development, details of external materials and architectural detailing including the use of weatherboarding, tile hanging, ragstone, arched brickwork and other vernacular detailing shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.

Reason: in order to achieve a high standard of design in accordance with criterion 3 of Policy H1 (53) of the Proposed Main Modifications to the Maidstone Borough Local Plan, February 2016.

16. Prior to commencement of development, details of a tree protection plan, including tree root protection shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.

Reason: to protect existing trees.

INFORMATIVE:

17. Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of

charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk

18. The BT GPON system is currently being rolled out in Kent by BDUK. This is a laid fibre optical network offering a single optical fibre to multi point destinations i.e. fibre direct to premises
19. With reference to condition 10 the LPA will expect to avoid the provision of external meter boxes on the primary elevations of the relevant buildings.

REPORT SUMMARY

REFERENCE NO - 15/510660/FULL		
APPLICATION PROPOSAL Retrospective permission is sought for two mobile homes, a day room, two touring caravans and a stable block for the benefit of a gypsy family		
ADDRESS Parkwood Stables, Park Wood Lane, Parallel Track, Staplehurst, Kent, TN12 0DF		
RECOMMENDATION - Approval subject to conditions		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000) and there are no overriding material considerations to indicate a refusal of planning consent.		
REASON FOR REFERRAL TO COMMITTEE Staplehurst Parish Council wish to see the application refused		
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr Kevin Harrington AGENT
DECISION DUE DATE 09/06/16	PUBLICITY EXPIRY DATE 27/06/16	OFFICER SITE VISIT DATE 17/05/15
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): 12/0557 - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses - ALLOWED at Appeal with conditions. This site is split in to two and comprises the Three Sons site and Parkwood Stables. 13/1633 - An application for discharge of condition 6 relating to MA/12/0557 – REFUSED on 18.11.2014 as insufficient information had been submitted to determine the condition. As the condition was refused the applicant was in breach of the time limit condition and the original planning consent that was allowed at appeal therefore lapsed. The council wrote to the applicant inviting them to resubmit 12/0577 as full planning application. 14/506873/FULL - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses - Variation of Condition 6 (a), (b), (c) and (d) of planning permission MA/12/0557 - No Further Action Taken as the time limit for submitting the condition details had expired and the planning permission has lapsed. 15/504557/FULL - Removal of Conditions 6 (a), (b), (c) and (d) of Application MA/12/0557/FULL – No Further Action Taken as the time limit for submitting the condition details had expired and the planning permission has lapsed. 15/506836/FULL - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 4 touring caravans and 2 utility blocks with associated parking for two gypsy families and for the keeping of horses (part retrospective) – Application returned due to inaccurate site plan. Enforcement ENF/13127 – New buildings and layout of site now different to Granted MA/12/0557 – Case		

Closed 24.04.2014

15/500580/CHANGE - Another Mobile home has been moved on site; 50 metres of fencing removed – Planning Application submitted.

Adjoining site to the west:

Three Sons site:

12/0557 - Change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses - **ALLOWED** at Appeal with conditions. This site is split in to two and covers the Three Sons site and Parkwood Stables

15/510210/FULL - Siting of 2 mobile homes, 2 touring caravans, and a utility/stable block for the benefit of a gypsy family for residential use (part retrospective) – Pending determination

Neighbouring sites located to the west of the application site:

Perfect Place (access off Maplehurst Lane):

13/0466 - Permanent / non personal permission for the retention of a mobile home, touring caravan and pole barn, together with permanent permission for a utility room, 2 stable blocks (as approved under MA/09/1767) and a sand school on an existing gypsy site – **APPROVED**
1.07.2014

15/506646/FULL - Variation of condition 01 of planning permission (13/0466) for two more mobile homes and two more touring caravans – Pending determination

15/506635/SUB - Submission of details to discharge Condition 5 (Disposal of animal waste products), Condition 6 (Disposal of run-off) and Condition 8 (Landscaping) of planning permission 13/0466 – **REFUSED**.

Maplehurst Lane sites:

15/501537/FULL - Change of use of land for the permanent stationing of a mobile home, utility room, stable block and touring caravan for gypsy family. (Part retrospective) - Pending consideration

15/501528/FULL - Change of use of land for the stationing of a mobile home, utility room, stable block and touring caravan for gypsy family (Part retrospective) – Pending consideration

14/503810/FULL - Change of use of land from grazing to residential for one caravan and a touring caravan and one utility shed – Decision quashed via Judicial Review. Enforcement case 16/500917/CHANGE – Pending consideration

13/1713 - Change of use of land to a gypsy/traveller site for two families with the stationing of 2 static caravans, 2 touring caravans, 2 utility buildings, laying of hard surfacing, cesspit and the erection of close boarded fencing – **REFUSED**

13/1732 (The Oaks) - Use of land as a gypsy/traveller site for one gypsy family including stationing of 1no Touring caravan and 1no Mobile home, erection of a utility block and installation of cesspit - **REFUSED**

12/1793 (Maplehurst Paddock) - An application for permanent (personal permission) use of land as home for a gypsy family within a mobile home, plus touring caravan dayroom and stables – Approved with conditions 30.09.2013

An annotated map showing the application site and neighbouring pitches (lawful and unlawful) is attached at **Appendix 1**.

1.0 BACKGROUND

- 1.1 The application site relates to a gypsy traveller site with a lapsed planning permission for change of use of land from agricultural to residential and stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and keeping of horses. The allowed appeal for this site (ref: 12/0557) did not limit the permission to specific occupiers other than to gypsies and travellers. The planning permission lapsed as the applicant failed to discharge relevant conditions within the prescribed time limit set out in the Inspectors decision notice for application 12/0557.
- 1.2 The principle of two permanent gypsy traveller pitches in this location has been established under the allowed appeal. However, at present the two pitches known as Parkwood Stables and Three Sons do not benefit from planning permission for the reason outlined above.
- 1.3 There are two pending applications to cover these two pitches, this application and 15/510210/FULL. These two applications are different from the consent allowed at appeal and permission is now sought for additional caravans and revised layouts.
- 1.4 Appeal decision for 12/0557 is attached at **Appendix 2**.

2.0 PROPOSAL AND SITE DESCRIPTION

- 2.1 Retrospective permission is sought for two mobile homes, a day room, two touring caravans and a stable block for the benefit of a gypsy family. Permission is sought for permanent non personal permission.
- 2.2 The mobile homes, day room and stable block are located on a piece of land set some 50m back from the Park Wood Lane frontage. There is a grazing paddock between the caravan site and the road which is also part of this application. Vehicle access is taken from Park Wood Lane in the northeast corner of the site and is shared with the adjoining site known as Three Sons. A majority of the site is bounded by post and rail fence. The stable block is located parallel to the southern boundary / ancient woodland. The day room and one mobile home are sited parallel to the west boundary of the site and the second mobile home is located at 90 degrees to the east of the paddock area.
- 2.3 The application is located on the west side of Park Wood Lane in the open countryside and Special Landscape Area as designated in the Local Plan 2000. The site is located in the open countryside in the emerging Local Plan (submission version) May 2016.
- 2.4 To the south of the site is an area of ancient woodland and local wildlife site known as Maplehurst Farm Wood. There is a watercourse running along the northern and southern boundary. To the north and east of site are fields and open countryside. To fields to the east of Park Wood Lane fall within Tunbridge Wells. Land adjoining the west of the site comprises a gypsy traveler site with a pending planning application 15/510210/FULL. There are further lawful and unlawful gypsy traveler sites located further to the west of the application site with access from Maplehurst Lane.

3.0 POLICY AND OTHER CONSIDERATIONS

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

Draft Local Plan policies: GT1, SP17, DM16
Planning Policy for Traveller Sites 2015 (PPTS)
Staplehurst Neighbourhood Plan: PW2, PW4

4.0 LOCAL REPRESENTATIONS

4.1 Frittenden Parish Council: Objects and recommend refusal for the following summarised reasons:

- Use of the land is not authorised.
- Contrary to policy.
- Highways Safety.
- Unsustainable development.
- Out of character for the status of the area of Low Weald
- Flood risk.
- Impact on ecology.

4.2 Staplehurst Parish Council: Recommend REFUSAL and request the application be reported to MBC Planning Committee for the following summarised reasons:

- Insufficient detail and plans.
- Contrary to the MBC Local Plan and Staplehurst NP.
- Not in a sustainable location
- Special status of the Low Weald.
- Horse pasture arrangements appeared inconsistent with DEFRA guidelines.
- The development would add to the already unacceptable over-intensification of the area.

4.3 Some 11 neighbour objections have been received raising the following (summarised comments):

- This is intentional unauthorised development.
- The applicant has failed to demonstrate he falls within a definition of a gypsy.
- Unsustainable location.
- MBC's 2014 SHEDLAA found this site unsuitable for a gypsy traveller site.
- The site is not allocated as a gypsy traveller sites in the emerging local plan.
- Landscape visual harm.
- Detrimental to setting of heritage assets.
- Harm to ancient woodland, ecology and water courses.
- Highways safety re: the site access and visibility.
- Flood risk.
- Pollution of adjoining watercourses.
- Site layout does not accord with the proposed layout.
- The cumulative visual impact of this sites and neighbouring sites dominates the area and settled community.
- The application fails to address the planning conditions on the previously allowed appeal.
- Lack of enforcement action.
- Loss of agricultural land.
- Harm to SLA.
- Contrary to the NPPF.
- The site is clearly visible from surrounding roads.
- Aerial photograph submitted with the application is out of date.
- Insufficient barrier adjacent the ancient woodland.
- This is a retrospective application.

- There is no mains water to this site.
- Management of waste and foul water.

4.4 Weald of Kent Protection Society: Objects to the proposal:

- Application is retrospective but not stated.
- No justification or traveller status given.
- Open countryside location

5.0 **CONSULTATION RESPONSES**

5.1 **Tunbridge Wells Borough Council:** Objects on grounds of visual harm and likely harm to ancient woodland unless the needs and personal circumstances or other material considerations would outweigh the harm identified and MBC is satisfied the proposal is acceptable in relation to all other material considerations, including highway safety.

5.2 **KCC Highways:** No objections

5.3 **Environment Agency:** No comments received following a consultation letter from MBC dated 6.06.2016. The EA have responded to the consultation request on the adjoining site and raised concerns regarding surface water drainage. The EA confirm the area is in Flood Zone 1. Since April 2015 the KCC as Lead Local Flood Authority are responsible for assessing surface water drainage in relation to planning application. KCC Drainage comments area below.

5.4 **KCC Drainage:** Confirm they have no records which demonstrate surface water issues in this area. KCC also confirm that development proposals for gypsy traveller applications fall outside the definition of major development, and therefore are outside of KCC's remit as statutory consultee.

5.5 **Landscape Officer:** Raises concerns regarding the proximity to the ancient woodland and that a 15m buffer has not been provided.

5.6 **MBC Environmental Health:** Request further information relating to portal water, sewerage and the use of the stable / utility block.

5.7 **Woodland Trust:** Objects to the current version of planning application 16/503251/FULL due to potential for damage and deterioration of ancient replanted woodland at Park Wood.

6.0 **Land Use**

6.1 There are no saved Local Plan policies relating directly to G&T development. Policy ENV28 of the adopted local seeks to restrict development in the countryside apart from a few exceptions which does not include G&T development.

6.2 Policy SP17 of the submission version of the draft local plan (DLP) and (also a countryside protection policy) states, amongst other things, that provided proposals do not harm the character and appearance of an area, small scale residential development necessary to meet a proven need for G&T accommodation will be permitted.

6.3 In addition policy DM16 of the DLP relating to G&T development states, amongst other things, that permission will be granted if a site is well related to local services,

would not harm the rural character and landscape of an area due to cumulative visual impacts and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

6.4 However the submission of the DLP was the subject of an EIP in the latter part of 2016 and has since been the subject of an interim assessment by the Inspector. Policy SP17 has been amended deleting any specific reference to G&T development apart from stating that proposals which accord with other policies in the plan and do not harm the countryside will be permitted. As such given the advanced stage of the DLP in moving towards adoption significant weight should be given to policies SP17 and DM16 of the DLP.

6.5 A key consideration in the determination of this application is also Government guidance contained within 'Planning Policy for Traveller Sites' (PPTS) amended in August 2016. This places an emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites are likely to be found in rural areas.

6.6 Issues of need are dealt with below but in terms of broad principle both local plan policies and Central Government Guidance permit G&T sites to be located in the countryside as an exception to the general development restraint policies.

6.7 Need for Gypsy Sites

6.8 Although the DLP is well advanced and therefore carries significant weight, there are not yet any adopted development plan policies relating to the provision of G&T sites. Local Authorities have responsibility for setting their own target for the number of pitches to be provided in their areas in their Local Plans. Maidstone Borough Council, in partnership with Sevenoaks District Council commissioned Salford University Housing Unit to carry out a Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) dated January 2012. The GTAA concluded the following need for pitches over the remaining Local Plan period:

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

6.9 The GTAA was completed prior to the refinement to the definition of Gypsies and Travellers contained in the revised PPTS published in August 2015. The GTAA is the best evidence of needs at this point, forming as it does part of the evidence base to the DLP. It is considered to be a reasonable and sound assessment of future pitch needs, albeit that actual needs may prove to be a degree lower as a result of the definition change. The current GTAA provides the best evidence of need but each decision must be taken on evidence available at the time of a decision made. .

6.10 The target of 187 additional pitches is included in Policy SS1 of the Maidstone Borough Local Plan which itself was agreed by Full Council on 20th January 2016 and has been accepted by the DLP inspector in his interim report.

6.11 Supply of Gypsy sites

6.12 Accommodation for Gypsies and Travellers is a specific type of housing that councils have the duty to provide for under the Housing Act (2004).

- 6.13 Since 1st October 2011, the base date of the GTAA, the following permissions for pitches have been granted (net):

86 Permanent non-personal mobiles
20 Permanent personal mobiles
3 Temporary non-personal mobiles
33 Temporary personal mobiles

- 6.14 Therefore a net total of 106 permanent pitches have been granted since 1st October 2011. A further 81 permanent pitches are needed by 2031 to meet the need identified in the GTAA.

- 6.15 The PPTS states that local planning authorities should identify a future supply of specific, suitable Gypsy and Traveller sites sufficient for the 10 year period following adoption of the Local Plan. The DLP allocate specific sites sufficient to provide 41 additional pitches by 2031. In addition, it can reasonably be expected that some permanent consents will be granted on suitable 'unidentified' sites in the future. There will also be turnover of pitches on the two public sites in the borough. Overall, by the means of the site allocations, the granting of consents (past and future) and public pitch turnover, the identified need for 187 pitches can be met over the timeframe of the Local Plan.

- 6.16 The Council prepared a Gypsy & Traveller and Travelling Showpeople Topic Paper as background to DLP Examination. In it is asserted the Council can demonstrate a 5.6 years supply of G&T sites by counting the LP allocations and making an allowance for the pitch turnover on the public sites (pages 11, 15) and the DLP Inspector did not comment on this. As such the council's position is that it can demonstrate a 5.6 year supply of G&T sites at the base date of 1st April 2016.

- 6.17 The PPTS directs that the lack of a 5 year supply of Gypsy pitches should be given weight in the consideration of granting a temporary consent. As the Council considers itself to be in a position to demonstrate a 5 year supply the PPTS direction to positively consider the granting of a temporary consent does not apply.

7.0 Gypsy status

- 7.1 The Government has revised the national planning guidance for Gypsy & Traveller development contained in 'Planning Policy for Traveller Sites' (PTS). The revised guidance came into force on 31st August 2015, and the planning definition of 'gypsies & travellers' has been amended to exclude those who have ceased to travel permanently. The revised definition is as follows;

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

- 7.3 The definition still includes those who are of a nomadic habit of life who have ceased to travel temporarily because of their own, or their dependants', health or education needs or old age. To determine whether an applicant falls within the definition in terms of ceasing travel temporarily, the PTS advises that regard should be had to; a) whether they had previously led a nomadic habit of life; b) the reasons for ceasing their nomadic habit of life; and c) whether there is an intention of living a nomadic habit of life in the future and if so, how soon and in what circumstances.

7.4 The agent has submitted information to demonstrate that the applicants fall within the current definition of a gypsy / traveller. The following information has been provided by the agent to address criteria a-c:

- Gypsy status of the applicant Mr Harrington was established at an appeal hearing in May 2013.
- It has previously been agreed that Mr Harrington leads a nomadic habit of life.
- The applicant has not ceased to lead a nomadic way of life.
- Mr Harrington travels with his son leaflet dropping areas to obtain work while he is away.
- The applicant and his son are away for weeks at any one time.
- Mr Harrington has no reason to cease having a nomadic habit of life.

7.5 Though the submitted information lacks detail it must be taken into account that gypsy and travellers by their very nature, live a more footloose and less regulated lifestyle compared to many in the settled community. It is also noted that the council has accepted similar lifestyle patterns when assessing other gypsy traveller status / applications. It must be reiterated that by their very nature G&T lifestyles make monitoring such activities problematic in planning terms. As such, unless the Council is in possession of clear substantiated evidence to refute the occupants claims both of an existing nomadic working lifestyle and intention to continue this lifestyle, such claims must be taken at face value. To go beyond this could be considered an overly forensic approach failing to reflect the realities of G&T lifestyles thereby making the Council vulnerable to claims of discrimination in its dealings with the G&T community. It is also noted that the Mr Harringtons gypsy status was agreed during a previous appeal hearing and Mr Harrington is considered to fall within the revised PPTS definition.

7.6 As such it is considered that based on the submitted details the applicants Mr Harrington and his extended family are from the travelling community and Mr Harrington leads a nomadic habit of life and it is accepted that they fall within the gypsy status definition.

8.0 Visual impact

8.1 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they not should dominate the nearest settled community and or place undue pressure on local infrastructure. No specific reference is made to landscape impact however, this is addressed in the NPPF, policy ENV28 of the adopted local plan and policy SP17 of the DLP which states that provided proposals do not harm the character and appearance of an area, amongst other things, small scale residential development necessary to meet a proved need for G&T accommodation will be permitted. In addition policy DM16 (modification version) states, amongst other things, that permission will be granted if a site is well related to local services, would not result in significant harm to the landscape and rural character of the area due to visual impacts, including cumulative visual impact and is well screened by existing landscape features, is accessible by vehicles, not located in an area at risk of flooding and wildlife considerations are taken into account.

8.2 It is generally accepted that mobile homes comprise visually intrusive development out of character in the countryside. Consequently unless well screened or hidden away in unobtrusive locations they are normally considered unacceptable in their visual impact. Consequently where they are permitted this is normally on the basis

of being screened by existing permanent features such as hedgerows, tree belts, buildings or land contours.

- 8.4 This site has been granted permission at appeal for the stationing of and keeping of horse (ref: 12/0557). In terms of the visual impact of the site on the local landscape the Inspector states:
- 8.5 *'Looking first at the horse keeping use, that would not, in itself, be out of keeping with the rural area. The paddock is shown to front Park Wood Lane and to extend back to the two residential pitches The Appellants have planted the perimeters of the paddock with native species such as hornbeam and hawthorn and in time the area will assimilate well with its surroundings appearing as a small field with native hedgerows.'*
- 8.6 I have no reason to disagree with the Inspector in terms of the visual impact regarding the keeping of horses and paddock area located at the front of the site. Additional landscaping can be secured by condition to enhance the existing landscape boundary treatment and plug any gaps to further screen the site from the Park Wood Lane frontage.
- 8.7 In terms of the visual impact of the two caravan pitches (Parkwood Stable and Three Sons) the Inspector states:
- 8.8 *'These have the advantage of being set back from the road and immediately to the north of a sizeable woodland area. They are thus seen at a distance and are screened from view from the south and seen against the backdrop of the wood from the north. The collection of structures on each site comprising the mobile home, touring caravan(s), utility room and domestic paraphernalia including parked vehicles cannot but be intrusive and the close boarded fencing that has been erected on the boundaries of the residential enclosures only emphasises the intrusion in the relatively unspoilt surroundings.'*
- 8.9 *'Seen only at a distance from any public viewpoint, however, the appearance of the residential part of the site is in general softened by intervening field boundary hedgerows. The clearest view is from the Park Wood Lane frontage of the site where recent tree felling and removal of vegetation has exposed the full depth of the site to view. However, when the newly planted hedgerow around the paddock matures this would screen much of the residential development from view. At the hearing the Appellants indicated that they would be willing to replace the close boarded fencing with means of enclosure more appropriate to the rural location which could further assist in assimilating the residential part of the site into its surroundings.'*
- 8.10 Since the appeal hearing a majority of the close boarded fencing on the site has been removed and replaced with post and rail fencing which is more appropriate to this rural location. The number of caravans and built structures on the site has clearly increased since the appeal hearing. However, the additional caravans and structures are set back from the road and are contained within the section of the site behind the paddock area and are therefore seen at a distance and are screened from view from the south and seen against the backdrop of the wood from the north, a relationship the Inspector found to be acceptable. For these reasons the additional caravan and structures on the site are not considered to result in significant harm to the landscape and rural character of the area compared to the scheme allowed at appeal in 2013. It is acknowledged that the vegetation along the road frontage would benefit from additional planting to plug any gaps and further screen the site from the Park Wood Lane and a condition is recommended to secure this.

Additional landscaping could also be provided adjacent the site vehicle access, subject to achieving adequate and safe visibility splays.

9.0 Cumulative Impacts:

- 9.1 Guidance in the PPTS states that Local Planning Authorities should strictly limit new traveller development in the countryside but also states that where sites are in rural areas they should not dominate the nearest settled community and or place undue pressure on local infrastructure. In addition policy DM16 (modification version) of the DLP states, amongst other things, that permission will be granted if a site would not significantly harm the rural character and landscape of an area due to cumulative visual impacts.
- 9.2 In terms of cumulative impact the Inspector assessing the lapsed permanent consent on this site states:
- 9.3 *'There are also four other gypsy sites nearby including Perfect Place adjoining the appeal site. However, three of the four only have temporary planning permission and the fourth a personal permission. All are small sites of one or two pitches. Having driven round the area and looked at the spread of gypsy sites and conventional dwellings, I did not find the former to be over-dominant even with the addition of the appeal site.'*
- 9.4 Since the Inspectors assessment of the cumulative impacts on the area there are now a number of additional pitches to the west of the site with access onto Maplehurst Lane. Of these pitches two have permanent planning permission for the stationing of caravans (Perfect Place and Maplehurst Paddock (personal consent)). A further five pitches are unlawful, including the pitch know as Three Sons adjoining the west boundary of the application site.
- 9.5 Dealing first with the whether the proposal is likely to dominate the nearest settled community, it is considered it would be extremely difficult to argue, given the modest number of persons involved in the development, that this would be the case.
- 9.6 Regarding any cumulative visual impact contrary to the provisions of policy DM16 of the DLP, in assessing this only lawful and permanent development should be taken into account. The adjoining site to the west, Three Sons, because it does not have permanent consent cannot be taken into account, however, it is acknowledged that there is a planning application pending determination on this adjoining site. The next nearest site is at Perfect Place and this site has permanent permission for a mobile home, touring caravan and pole barn, a utility room, 2 stable blocks and a sand school. There are a currently two mobile homes on this site which do not have consent and are unlawful. A field separates Three Sons sites from Perfect Place. Fields with hedgerow boundaries are located between the application site and the other lawful and unlawful pitches accessed off Maplehurst Lane.
- 9.7 Given the separation distances between the application site and other lawful pitches located to the west which includes mature hedgerow and tree planting field boundaries in places and given the limited lawful G&T development in the locality it is considered it would be difficult to argue a cumulative impact in connection this proposal. In coming to this conclusion I have had regard to the recommendations for approval for applications 15/501537 and 15/501528 which are also being considered by Members at committee on the 23 May 2017.

10.0 Ecology and Ancient Woodland Impacts

- 10.1 Paragraph 118 of the NPPF states that:
- 10.2 *'planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;'*
- 10.3 Natural England and Forestry Commission guidance relating to ancient woodland states the:
- 10.4 *'Impacts of development nearby can include these effects on the trees and woodland, and the species they support:*
- *compacting the soil around tree roots*
 - *breaking up or destroying connections between woodland and other habitats*
 - *reducing the amount of semi-natural habitats (like parks) next to ancient woodland*
 - *changing the water table or drainage*
 - *increasing the amount of pollution, including dust*
 - *increasing disturbance to wildlife from additional traffic and visitors*
 - *increasing light pollution*
 - *increasing damaging activities like flytipping and the impact of domestic pets*
 - *changing the landscape character of the area'*
- 10.5 The adjoining woodland is designated ancient woodland and there are several ponds in the area including one on the application site at the southern end of the road frontage together with drainage ditches.
- 10.6 In terms of ecological impacts the site has been in use as a gypsy traveller site since 2012 with hardcore laid in the part of the site containing the caravans, utility building and stable.
- 10.7 The appeal Inspector previously found that consent could be granted at this site without ecological harm arising provided suitable safeguarding conditions are imposed. It is noted that the conditions recommended by the Inspector have not been complied with or formally discharged by the council and this permission has lapsed as a result. The ecology condition on the Inspectors decision states the following ecology details shall be submitted to the council:
- the creation of and retention of an ancient woodland buffer strip;
 - the creation and retention of a habitat buffer strip between the road and ditch;
 - the creation and retention of a habitat buffer around the pond; and
 - the creation of a log pile within the pond habitat buffer
- 10.8 To date only log pile has been provided on site although the proposed site plan indicates that habitat buffer strip between the road and ditch and around the pond would be planted should consent be granted. The site plan also proposes a buffer landscaping strip some 6m in depth along part of the boundary adjacent the ancient woodland.
- 10.9 Clearly the fact that the previous requirements and conditions have not been fully complied with is not ideal, however, in terms of ecological impacts it is considered that there have been no material changes at the site since the Inspector granted permanent consent in 2013 and the area of hardcore and grazing paddock remains

broadly the same with some additional landscaping planted on the site boundaries. The removal of the close boarded fencing and replacement with post and rail fencing comes with ecological benefits and allows wildlife to move between the site and the adjoining fields and woodland. Subject to the imposition of the aforementioned ecological enhancements which can be secured by condition it is considered that the ecological impacts at the site would be acceptable.

- 10.10 One of the most notable changes on site compared to the previous appeal consent relates to the erection of a stable block along the southern boundary. The stable block is located in proximity to the south boundary and within the ancient woodland buffer planting strip proposed within the remainder of this site and the adjoining site. It is also noted that the proposed buffer strip adjacent the ancient woodland is only some 6m wide which is notably less than 15m which is recommended by Natural England guidance.
- 10.11 On this point, it is unlikely that it would be possible to provide a 15m wide buffer strip within the site along the southern boundary adjacent to the ancient woodland as a 15m wide planting strip would encroach into the site and significantly reduce the available space for stationing the two mobile homes, two tourers, utility building, stable block and outdoor amenity space.
- 10.12 The Inspectors decision did not specify that the buffer should be 15m and it is also noted that during the consideration of the Section 78 appeal (planning application 12/0557) and associated enforcement appeals that the applicant was required to relocate a stable from the road frontage due to the visual harm caused to the open countryside.
- 10.13 The application details suggest the current stable block as been on site for 7 or 8 years which would make it immune from enforcement action. However, after examining aerial photographs of the site I have not been able to find any evidence of the stable block in this location before 2012. Notwithstanding this the stable has been in the current location for some time and the council have not taken enforcement action to date and although the stable is located within the desired 15m buffer zone adjacent to the ancient woodland, given the size of the stable it is considered that any harm caused to the ancient woodland would be negligible and potentially irreversible and potential harm arising from the construction of stable block would have already occurred. It is also considered that the demolition of the stable block could result in further harm to the ancient woodland. It would be important to ensure the stable block and horse waste is probably managed on this site to safeguard the adjacent woodland and further details could be secured by condition should Members consider granting permission.
- 10.14 The location of the stable block in proximity to the ancient woodland and general use of the site as a gypsy traveller in terms of the impacts on the ancient woodland clearly weigh against the proposed development.

11.0 Sustainability

- 11.1 Gypsy traveller sites will almost inevitably be located in countryside locations, and the site is located some 2.5 kilometres from Staplehurst. In my view, I do not consider the site to be so far removed from basic services and public transport opportunities as to justify grounds to refuse this application in terms of being unsustainable. The Inspector determining the appeal for application 12/0557 also found this site to be in a sustainable location for a gypsy traveller site.

12.0 Residential amenity

- 12.1 There are other gypsy sites in close proximity to the site (although it is noted not all these sites are lawful). The closest residential house is located some 120m to the north of the site on the opposite side of the road. The static caravans are located a sufficient distance away from the neighbouring houses / caravans and I am satisfied that the development would not have a significant detrimental impact on the residential amenity of any neighbouring occupant, in terms of general noise and disturbance, and privacy.

13.0 Highway safety implications

- 13.1 The application site is located in the open countryside and any future occupants of the site would be largely reliant on private motor vehicles to access local services and facilities.
- 13.2 KCC advise that they have no objections to the vehicle access which has been in situ for a number of years. The Inspector also found the vehicle access to be appropriate from a highways safety perspective. The hardstanding around the mobile homes would provide sufficient on-site parking and turning areas such that there would be no adverse highways safety impact on Park Wood Lane.
- 13.3 There is an established vehicle access to the site and KCC Highways do not raise any highways safety issues regarding the access. The use of the site would not result in a significant increase in vehicle trips given the nature / size of the site. Overall, it is considered that there is no significant highway safety or parking issues to warrant refusal of the application.

14.0 Flood Risk

- 14.1 The application site is located in Flood Zone 1 and there are no flood risk objections in terms of fluvial or tidal flooding as a result. KCC Drainage has advised that this area is not subject to any known surface water drainage issues to warrant refusal of this type of application.
- 14.2 A number of objections have been received relating to on site drainage and, although the site has been utilised as a gypsy traveller site for a number of years and the Inspector assessing the previous application on this site did not consider it necessary to request further details relating to drainage and portable water it would be prudent to do so now to ensure that the additional unit and intensified use of the site can be accommodated.

15.0 OTHER MATTERS:

- 15.1 Government Guidance makes clear that G&T planning applications submitted on a retrospective basis represents a material consideration that should be taken into account in determining such applications. However guidance on how much weight this should be given is not clear while the planning system is not intended to be punitive but to secure compliance with legitimate planning objectives. As such when assessed against existing planning criteria the fact that retrospective planning permission is being sought is, on its own, insufficient to weigh significantly against the development.

16.0 PREVIOUS CONSENT AND CONDITIONS

- 16.1 It is acknowledged that the previous consent on this site has lapsed and some of the conditions attached to the Inspectors decision have not been adhered to or formally discharged by the council and there is concern from local residents that any future conditions attached to a new consent will also not be adhered with.

- 16.2 On this point, should Members be minded to granted approval, it will be important for the council officers to act proactively and communicate with the applicant to ensure the proposed conditions are submitted to and discharged by the council within the prescribed time limits. It will also be important to ensure that council officers are proactive in ensuring the additional details are fully delivered on site within the prescribed timescale and maintained thereafter. The council enforcement powers will be utilised should the applicant not comply with the proposed conditions.

17.0 CONCLUSION

- 17.1 The site is located within the countryside; however, gypsy sites can be acceptable in the countryside. It is considered that the applicant is a gypsy and complies with the definition contained within the Planning Policy for traveller sites document.
- 17.2 The introduction of a gypsy traveller site comprising two mobile homes, stable block and utility building in the countryside will inevitably have some visual impact on the character and appearance of the rural area. In this instance the visual impact of the development is considered to be acceptable subject to additional landscaping and this site was found to be acceptable from a visual impact perspective when previously assessed at appeal. The caravans and buildings on the site area set back from the road and the existing boundary planting can be further enhanced, including adjacent the site access onto Park wood Lane subject to visibility splays.
- 17.3 The application site, when combined with other gypsy sites in the vicinity, and in relation to existing authorised developments, does not dominate the settled community.
- 17.4 In the context of gypsy and traveller accommodation, the application site is considered to be in a relatively sustainable location that is not so remote from services and facilities to justify a refusal.
- 17.5 The application development does not have any adverse impact on residential amenity. The application development does not lead to any increased risk to highway safety or flood risk.
- 17.6 The proximity of the gypsy caravan site and in particular the stable block to the southern boundary would be contrary to Natural England guidance is considered to have a detrimental impact on the adjacent ancient woodland as a result. The impact on the ancient woodland is considered to weigh against the proposed developed although the removal of the stable block could cause further harm to the Ancient Woodland.
- 17.7 All representations received on the application have been fully taken into account. Balancing matters, it is considered that the impact on the ancient woodland and low level of landscape harm caused by the development is outweighed by the need to provide gypsy traveller accommodation within the borough and the fact that this site has previously been granted consent at appeal, albeit that permission has now lapsed.

18.0 RECOMMENDATION – GRANT Subject to the following conditions:

- (1) The site shall not be used as a caravan site by any persons other than gypsies or Travellers and their family and/or dependants, as defined in Annex 1 of the Planning Policy for Traveller Sites 2015;

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements for Gypsy and Traveller Caravan Sites.

- (2) No more than two static caravans and two tourers, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time unless otherwise agreed in writing with the Local Planning Authority;

Reason: To safeguard the character and appearance of the countryside.

- (3) Save for activities in connection with the keeping of horses no commercial or business activities shall take place on the land;

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

- (4) If the use hereby permitted ceases, all caravans, structures, equipment and materials brought onto the land for the purposes hereby permitted including hardstandings, stable blocks and utility rooms shall be removed within 3 months of cessation;

Reason: To safeguard the character and appearance of the countryside.

- (5) Within three months of the date of this decision notice, details of the proposed method of surface water and foul sewage treatment, along with details regarding the provision of portable water and waste disposal, must be submitted to and approved in writing by the Local Planning Authority

The submitted details should include the size of individual cess pits and/or septic tanks and/or other treatment systems and should show the exact location on site and details as to where the system will discharge to. The development shall be carried out in accordance with the approved details and maintained thereafter unless with the agreement in writing of the Local Planning Authority.

Reason: in the interests of health and safety and to prevent contamination.

- (6) Within three months of the date of this decision notice, details of a scheme of landscaping, using indigenous species which shall be in accordance with BS:5837 (2012) 'Trees in relation to design, demolition and construction - Recommendations' and include a programme for the approved scheme's implementation, maintenance and long term management plan shall be submitted for approval in writing by the Local Planning Authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include the following;

i) Details of the species, size, density and location of all new planting along the southern boundary and the area to the front / eastern part of the site adjacent the road and around the pond;

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (8) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons after the date of the decision notice; 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 safeguard the character and appearance of the countryside.

- (9) Within three months of the date of this decision notice, details of a repositioned access to Park Wood Road including sight lines, landscape works, surfacing materials and details of any gates proposed shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained thereafter unless with the agreement in writing of the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside

- (10) Within three months of the date of this decision notice, details of a Landscape Scheme and Ecological Management Plan for the site shall be submitted for approval in writing by the Local Planning Authority. Landscape Scheme and Ecological Management Plan shall include:

- o the creation of and retention of an ancient woodland buffer strip;
- o the creation and retention of a habitat buffer strip between the road and ditch;
- o the creation and retention of a habitat buffer around the pond; and

The development shall be carried out in accordance with the approved details and maintained thereafter unless with the agreement in writing of the Local Planning Authority.

Reason: To safeguard the character and appearance of the countryside, and in the interest of biodiversity.

- (11) Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interests of residential amenity.

- (12) No external lighting shall be installed on the site without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity

- (13) Within three months of the date of this decision notice, details of the means of storage prior to disposal and the method of disposal of faecal, bedding or other waste arising from the animals housed within the development have been submitted to and approved in writing by the local planning authority. Such waste material arising from the animals so housed shall be disposed of solely in accordance with the approved details;

Reason: To safeguard the enjoyment of their properties by adjoining residential occupiers and the amenities of the surrounding area.

(13) The development hereby permitted shall be carried out in accordance with:

Site Location Plan, Existing Stable Block Plan, Utility Block Plan and J001433 PL02A; received 19.03.2016.

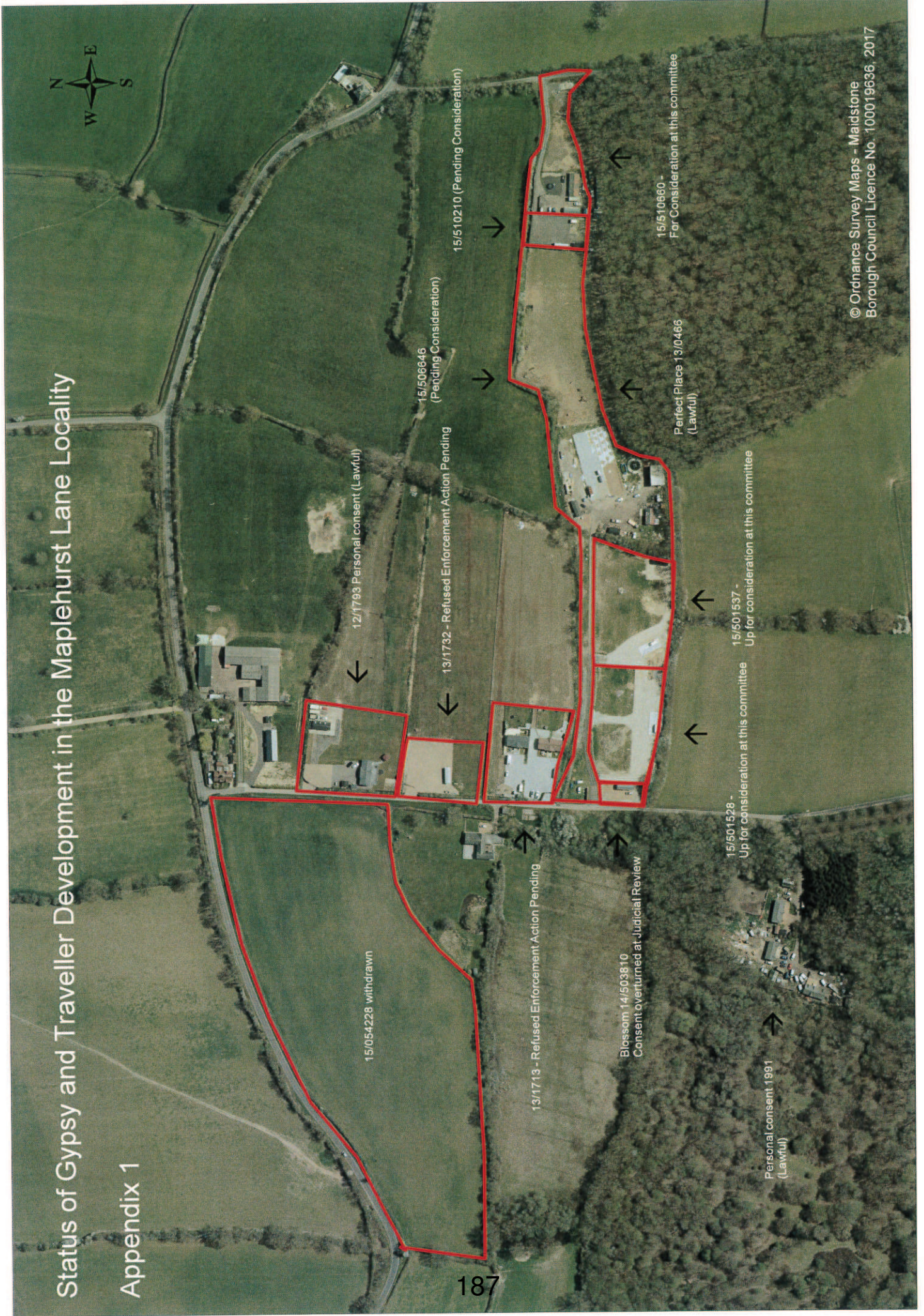
Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

Case Officer: Andrew Jolly

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

Status of Gypsy and Traveller Development in the Maplehurst Lane Locality

Appendix 1



Appeal Decisions

Hearing held on 14 May 2013

by Bridget M Campbell BA(Hons) MRTPI

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

Decision date: 26 June 2013

Notice 1: APP/U2235/C/12/2190048

Parkwood Stables, Park Wood Lane, Staplehurst, Kent TN12 0DF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr K Harrington against an enforcement notice issued by Maidstone Borough Council.
- The Council's reference is ENF/12194.
- The notice was issued on 6 December 2012.
- The breach of planning control as alleged in the notice, the requirements of the notice and the periods for compliance with the notice are set out in Annex 1 to this decision.
- The appeal is proceeding on the grounds set out in section 174(2) (d) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction and variation.

Notice 2: APP/U2235/C/12/2190049

Three Sons, Park Wood Lane, Staplehurst, Kent TN12 0DF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr S Peckham against an enforcement notice issued by Maidstone Borough Council.
- The Council's reference is ENF/12194.
- The notice was issued on 6 December 2012.
- The breach of planning control as alleged in the notice, the requirements of the notice and the periods for compliance with the notice are set out in Annex 2 to this decision.
- The appeal is proceeding on the grounds set out in section 174(2) (c) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction and variation.

S78 Appeal: APP/U2235/A/13/2191661

Land between Park Wood Lane & Frittenden Road known as Three Sons and Parkwood Stables, Park Wood Lane, Staplehurst, Kent TN12 0DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs K Harrington and Mr S Peckham against the decision of Maidstone Borough Council.
- The application Ref MA/12/0557, dated 23 March 2012, was refused by notice dated 19 October 2012.
- The development proposed is a change of use from agricultural to the stationing of 2 mobile homes, 3 touring caravans and 2 utility rooms for residential purpose and associated parking.

Summary of Decision: The appeal is allowed and conditional planning permission granted

Preliminary matters

1. Despite the use of a number of postcodes on various documents, I was assured at the hearing that the one used in this decision is the correct one.

Background

2. The appeal site for the s78 planning appeal encompasses both properties, that is Parkwood Stables and Three Sons, the subject of the two enforcement notices. As a whole, the land is roughly rectangular in shape and has a frontage on its eastern side to Park Wood Lane. The access is at the northern end of that frontage and an access track follows the northern boundary leading to the rear. At the front of the site is an area of hard standing behind which is a paddock. To the rear of the paddock are two enclosed, hard surfaced areas, one accommodating the residential area for Parkwood Stables and the other used for the keeping of horses. The Three Sons property adjoins the rear of the Parkwood Stables site and is much smaller in extent. It is divided into two hard surfaced, fenced areas, the larger, northern one accommodating the residential use.
3. The land was once part of Perfect Place to the west. A temporary and personal planning permission was granted in 2006 on appeal for that property for the keeping of horses and as a residential caravan site. That permission has subsequently been renewed. In the initial appeal decision, the Inspector upheld an enforcement notice requiring the closure of the access onto Park Wood Lane.

The s78 appeal

4. The application as submitted sought permission only for the residential caravan site use. The Council determined the application as one for that use but also for the keeping of horses. The Appellant confirmed that the revised description used by the Council better described the proposed use and it was agreed that I should adopt it.
5. I was also invited to include the parking of a catering trailer as part of the proposal but have decided that it would not be appropriate to do so. The reason for not including it is that in the absence of any details about its size or where on the site it would be accommodated I cannot safely come to a conclusion as to whether any harm would arise.

The enforcement notices

6. The nature of the grounds of appeal is such that the Appellants acknowledge that the enforcement notices will be upheld subject to any correction or variation that might be made resulting from the grounds brought. The breaches of planning control alleged in the notices do not exactly match the description of development in the s78 appeal. Thus if the s78 appeal succeeds and planning permission is granted, the notices would only cease to have effect insofar as they were inconsistent with that permission (s180 of the Act). So, for example, the notice would still require the parking and storage of motor vehicles to cease. That was understood by all at the hearing.
7. At the outset of the hearing a number of corrections to the notices were discussed and agreed. In essence these are concerned with deleting agricultural use from Notice 1 and making other minor adjustments to the allegation and requirements of the notices none of which result in any

fundamental change to their meaning. It was agreed that the corrections could be made without injustice to either party and the corrections are set out in Annex 3 (Notice 1) and Annex 4 (Notice 2).

Notice 2 – the appeal on ground (c)

8. The ground of appeal is that the matters alleged do not constitute a breach of planning control. The Appellant's appeal on this ground is confined to the fencing and gates at the property which the Appellant claims are permitted development. The Council does not dispute that claim and, that being the case they can be deleted from the alleged breach of planning control. To that extent the appeal on ground (c) succeeds.
9. However, the Council says the fencing and gates facilitate the unauthorised use and their removal is required to remedy the breach. It has been well established that a notice attacking a use can require the land to be restored to its condition before the breach took place and that can require the removal of any incidental operations integral to the use whether or not they would in themselves have comprised development requiring planning permission.¹
10. The Appellant claimed that the fencing and gates were not erected to facilitate the residential use. That would be an argument for ground (f) that the requirements of the notice are excessive. However even had the appeal been brought under that ground it would not have succeeded. The fences and gates have clearly been introduced to define and secure the property and would not have been erected but for the introduction of unauthorised use. The requirement of the notice to remove the fencing and gates is not excessive.

Notice 1 – the appeal on ground (d)

11. The ground of appeal is that at the time the notice was issued it was too late to take action. The Appellant's appeal on this ground is confined to the access from Park Wood Lane and to the adjacent hard standing which, it is claimed, were substantially complete more than four years before the notice was issued.
12. In support of the claim reference is made to the ordnance survey base for the planning application which indicates a rectangular area at the front of the site, and to two aerial photographs and a streetview photograph.
13. The streetview photograph from March 2009 is illuminating in that it shows an area of rubble/hardcore in roughly the same position as the current hard standing. The surface today, however, is finished with road plantings. Thus the hard standing was not substantially complete by 6 December 2008, four years before the notice was issued.
14. A similar finding might be made about the access into the site but here there is also an existing enforcement notice in force requiring the access in its current position to be closed with post and wire fencing. Photographs submitted by a local resident and said to have been taken in March 2008 and January and February 2009 show that this was done and this corresponds with applications made in 2008 to reopen the access which were refused. A further photograph from the resident taken in October 2009 shows the access opened once again and provided with a pair of gates. I have no reason to doubt the date on those

¹ Murfitt v SSE [1980] JPL 598 and Somak Travel Ltd v SSE [1987] JPL 630

photographs which suggest the access was reopened between February and October 2009 within the four year period.

15. The appeal on ground (d) fails.

The s78 appeal

Planning policy and identification of the main issue

16. There is no dispute that national and local planning policies aim to protect the countryside and that isolated new homes in the countryside are to be avoided unless there are special circumstances (paragraph 55 of National Planning Policy Framework (NPPF)). The Appellants' case is put on the basis that they fall within the definition of gypsies and travellers for planning policy purposes and that the site is suitable as a gypsy caravan site. The Council is satisfied that both appellant families are gypsies and, having heard evidence at the hearing about their travelling patterns in connection with their horse dealings, I am satisfied that they meet the definition as set out in Annex 1 of CLG *Planning policy for traveller sites* (PPTS).
17. The Development Plan for the area comprises saved policies of the Maidstone Borough-Wide Local Plan 2000. Policy ENV28 resists development in the countryside which harms the character and appearance of the area or amenities of surrounding occupiers and limits development to certain categories, one of which is development provided for by other policies of the Plan. The policy addressing the provision of gypsy sites however has not been saved. Locally designated Special Landscape Areas, within which this site is situated, are afforded special protection by policy ENV34.
18. The current anticipated date for adoption of the emerging Local Plan is 2015. A gypsy and traveller accommodation assessment for the Borough was completed in January 2012 and it reveals a need for 157 pitches October 2011-March 2026 and a further 30 to March 2031, the end of the Plan period. A criteria based gypsy policy (CS12) is included within the draft plan and although it attracts little weight at this stage, the listed considerations of accessibility, effect on the landscape, highway safety, flooding and ecology are all relevant planning matters and are addressed in national policy in the NPPF and PPTS.
19. Against this background the main issue in this appeal is whether the site is suitable for a gypsy caravan site as part of a mixed residential and horse keeping use having regard to national and local policy and if not whether any harm identified is outweighed by other considerations.

Reasons – suitability of the site

20. The Council fairly accepts that gypsy sites are commonly found in rural areas but draws attention to PPTS policy H (paragraph 23) which says they should be strictly limited where away from existing settlements or outside areas allocated in the development plan. In addition they should not dominate the nearest settled community. In this case, the countryside within which the appeal site is situated contains a scatter of isolated dwellings and farmsteads. There are also four other gypsy sites nearby including Perfect Place adjoining the appeal site. However, three of the four only have temporary planning permission and the fourth a personal permission. All are small sites of one or two pitches. Having driven round the area and looked at the spread of gypsy sites and conventional

dwellings, I did not find the former to be over-dominant even with the addition of the appeal site.

21. The site lies about 2.5 kilometres from Staplehurst which has a good range of facilities and services necessary for day to day living. Whilst the journey is not long, it is accepted that there would be reliance on the car. The site is undoubtedly "away from existing settlements" but it provides a settled base for the two families with some room for horse keeping thus supporting, to a degree, their livelihood. In addition the distance to access education and health services is not great. The previous appeal Inspector found the overall sustainability of the site was not so poor as to warrant dismissing the appeal on that ground alone and I have no reason to disagree with that conclusion.
22. The appeal site is situated within the Low Weald Special Landscape Area, a local designation which, I am told, will not be carried forward into the next Local Plan. Nonetheless the protection of the quality of the landscape is an important planning objective as is the protection of the countryside from unnecessary development. The previous appeal Inspector described the area as characterised by small pastures, strong hedgerows, mature trees, woodlands and winding country lanes. That, together with the scatter of dwellings and farmsteads is, in my view, typical of the area within which the appeal site is situated.
23. Looking first at the horse keeping use, that would not, in itself, be out of keeping with the rural area. The paddock is shown to front Park Wood Lane and to extend back to the two residential pitches. No stable building is proposed as part of this application and Notice 1 requires the removal of the existing stable building and the hard standing to the road frontage. The Appellants have planted the perimeters of the paddock with native species such as hornbeam and hawthorn and in time the area will assimilate well with its surroundings appearing as a small field with native hedgerows.
24. Turning next to the two residential pitches proposed, these have the advantage of being set back from the road and immediately to the north of a sizeable woodland area. They are thus seen at a distance and are screened from view from the south and seen against the backdrop of the wood from the north. The collection of structures on each site comprising the mobile home, touring caravan(s), utility room and domestic paraphernalia including parked vehicles cannot but be intrusive and the close boarded fencing that has been erected on the boundaries of the residential enclosures only emphasises the intrusion in the relatively unspoilt surroundings.
25. Seen only at a distance from any public viewpoint, however, the appearance of the residential part of the site is in general softened by intervening field boundary hedgerows. The clearest view is from the Park Wood Lane frontage of the site where recent tree felling and removal of vegetation has exposed the full depth of the site to view. However, when the newly planted hedgerow around the paddock matures this would screen much of the residential development from view. At the hearing the Appellants indicated that they would be willing to replace the close boarded fencing with means of enclosure more appropriate to the rural location which could further assist in assimilating the residential part of the site into its surroundings.
26. The clearance of vegetation along the frontage of the site is unfortunate in that it has opened up the site to view. However, from the large amount of

progressive decay visible in all but one of the stumps it is clear that the trees along this frontage would have had a limited useful life expectancy; indeed the decay is such that the trees might well have been in a dangerous condition prior to their removal. The tree without signs of decay in the stump was required to be removed because it was overhanging the highway.

27. With vegetation cut back/removed the possibility of repositioning the vehicular access so as to overcome any highway objection was discussed at the hearing and from a road safety aspect the officer from the highway authority was of the view that this could be satisfactorily achieved. Moving the access from the northern end of the frontage would enable improved sight lines to be provided and kept free from obstruction. Park Wood Lane is narrow but from the frontage of the site there is a view to the junction with Frittenden Road, a short distance to the north, so that emerging traffic would know if the road to the junction was clear.
28. The creation of a new access onto Park Wood Lane could be an intrusive feature but need not necessarily be so if sensitively designed and executed. The Appellants have already carried out some replacement planting of hornbeams along the frontage. A scheme could be devised to provide an access that was both safe and in keeping with the rural area. The Appellants expressed a willingness to undertake such work and this could be secured by way of condition.
29. I appreciate that the previous appeal Inspector found the access into the site to be hazardous but he did not explore whether it could be altered so as to be made acceptable since an alternative access onto Maplehurst Lane was available in that case. Moreover at that time the Park Wood Lane frontage was lined with mature trees with no indication, as far as am I am aware, that they were not perfectly healthy. I have noted the concerns that use of the lane by the Appellants has resulted in damage, but as a public highway it should be capable of accommodating traffic and the amount and type of vehicles kept on the appeal site can be controlled by way of condition. I was also shown a photograph at the hearing to demonstrate that the damage to the hedgerow opposite the access was not caused by the Appellants but by a car crashing through it following a police chase.
30. Turning then to matters of ecology, the Council was concerned that the development might have an adverse effect on protected species and on ecology and biodiversity generally. The adjoining woodland is designated ancient woodland and there are several ponds in the area including one on the appeal site at the southern end of the road frontage together with drainage ditches. Following the refusal of permission, the Appellants commissioned a biodiversity risk assessment. The subsequent report has been accepted by the Biodiversity Officer for Kent County Council who advises that permission could now be granted without harm arising provided suitable safeguarding conditions are imposed.
31. Residents have suggested that the site is not suitable for residential occupation as it floods. The Council, taking on board these concerns, consulted the Environment Agency. That body, however, does not object to the use since it considers it to pose a low environmental risk. The Council accepts this view and said the problem is a localised drainage issue with no threat to life. Whilst it is clear that the site is affected from time to time, the problem is insufficient in itself to warrant refusal of planning permission.

Other considerations - need

32. There is an acknowledged need for more gypsy and traveller sites both nationally and regionally. Work undertaken in connection with the emerging Local Plan demonstrates a clear need for many more pitches in the Borough with 105 pitches between October 2011 and March 2016. Permanent permission has only been granted for 36 pitches since the beginning of that period and 6 of those have only been granted because of the personal circumstances of the applicant. The Council secured funding in January 2012 for a new 15 pitch public site but no suitable land has been identified despite a "call for sites" and the regular monitoring of land auctions. The funding is conditional on having a site developed by March 2015.
33. The two public sites in the Borough are full with no vacancies anticipated in the foreseeable future.
34. Paragraph 9(a) of the PPTS requires Councils to identify and to update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. The Council has not done this and even though the Local Plan is anticipated for adoption in 2015 there is considerable doubt as to whether, even by then, deliverable sites will have been identified.
35. In 2006 when the previous appeal Inspector granted a temporary permission for a period of three years for Perfect Place, it was anticipated that the Council would undertake a site identification process which might indicate whether other sites, better located in terms of access to public transport and which would cause less harm to the landscape, could be found. Some seven years later no sites have been identified and pitches continue to come forward on an ad hoc basis.
36. The need for more sites continues and no progress as yet has been made in planning to address that need.
37. There are two families on the appeal site with a total of four young children. A settled base is required to assist access to health facilities and education. Neither family moved on to the appeal site from an authorised settled base of its own and neither family has an alternative site to go to.

The balance of considerations

38. It is highly unlikely that the Council will be able to meet the substantial identified need for more gypsy and traveller caravan sites without locating some, if not most, of them in the countryside. In this case, in assessing the suitability of the site against material planning considerations, which coincidentally coincide with the criteria of emerging Local Plan policy CS12, I have found the site to perform well.
39. The site lies within a reasonable distance of local services in Staplehurst albeit that there would be reliance on the car (criterion 1). It is highly unlikely that a gypsy site in the countryside would not have some effect on the character and appearance of the area but in this case the development has the advantage of a backdrop of woodland to the south and being seen at a distance from any public viewpoint. The screening effect of intervening hedgerows would be reinforced and built upon with the planting recently undertaken by the Appellants and, with further planting along the Park Wood Road frontage and the removal of the inappropriate close board fencing, the development could be

successfully assimilated into its surroundings (criterion 2). Safe access can be achieved by adjusting the vehicular access into the site (criterion 3), the site is not in an area identified as being at risk from flooding (criterion 4) and ecological concerns have been addressed (criterion 5). I am aware that saved policy ENV34 says that in Special Landscape Areas priority will be given to the landscape over other planning considerations but I do not take that to mean that there can be no development accommodated in such areas. In all the harm arising from the development of the site in the manner proposed, subject to the imposition of suitable safeguarding conditions would be not be substantial.

40. To be balanced against that harm and any apparent conflict with planning policies is the substantial and on-going need for many more gypsy pitches. This is a problem identified by my colleague in 2006 and, some seven years later, seems no nearer being addressed. Whilst the assessment of need has been updated, there is no five year supply of deliverable sites and no realistic timetable of when such a supply might be identified. In the meantime sites continue to come forward on an ad-hoc basis only. This is far from satisfactory. The acute need for allocated sites to meet the ongoing shortfall of pitches is a matter to which I attribute substantial weight. In this case it outweighs the limited harm I have identified and indicates that, where limited conflict does arise, the application should be determined otherwise than in accordance with the Development Plan.
41. The appeal succeeds and planning permission will be granted.

Conditions

42. Since I have found the development to be justified having regard to the need for more gypsy and traveller pitches generally rather than having regard to the particular circumstances of the Appellants, there is no need to limit the permission to specific occupiers other than to gypsies and travellers. My reasoning makes clear that I consider a permanent permission is justified rather than a temporary one as suggested by the Council. To ensure that the development successfully assimilates into its surroundings, and in the interests of ecology and highway safety it is necessary to limit the number of residential pitches and caravans, commercial activities, size of vehicles, and external lighting and to require a detailed layout of the site to include such measures as the incorporation a repositioned access, removal of the close board fencing, and the introduction of a landscape scheme and ecological management plan.

Notice 1 and Notice 2 – the appeals on ground (g)

43. The ground of appeal is that the time given to comply with the requirements of the notices is too short. The time periods given for compliance range from three to five months depending upon the specified requirement.
44. Much of the Appellants' arguments for an increased period of time relate to the residential use and the notice will cease to have effect insofar as that use is concerned once planning permission is granted for the s78 appeal. In addition, it would appear that in some respects the notices have already been largely complied with, for example I saw no metal containers on the site and few motor vehicles other than those connected to the residential and horse keeping uses. Insofar as the notices would still have effect it seems to me that the time periods given would be sufficient to enable the necessary work to be

done. Moreover, if any aspect of the requirements was to be the subject of further constructive negotiation between the parties, the Council has the discretion to extend the period specified under s173A(1) of the Act.

45. The appeals on ground (g) fail.

Formal Decisions

Notice 1: APP/U2235/C/12/2190048

46. The enforcement notice is corrected and varied by the deletions and additions to the allegation and requirements as set out at Annex 3. Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

Notice 2: APP/U2235/C/12/2190049

47. The enforcement notice is corrected and varied by the deletions and additions to the allegation and requirements as set out at Annex 4. Subject to these corrections and variations the appeal is dismissed and the enforcement notice is upheld.

S78 Appeal: APP/U2235/A/13/2191661

48. The appeal is allowed and planning permission is granted for use of the land for residential purposes involving the stationing of 2 mobile homes, 3 touring caravans and 2 utility blocks with associated parking for two gypsy families and for the keeping of horses at Land between Park Wood Lane & Frittenden Road known as Three Sons and Parkwood Stables, Park Wood Lane, Staplehurst, Kent TN12 0DF in accordance with the terms of the application, Ref:MA/12/0557, dated 23 March 2012, and the plans submitted with it, subject to the following conditions:

- 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of *Planning policy for traveller sites*.
- 2) There shall be no more than 2 pitches on the site. On the western pitch no more than 2 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 1 caravan shall be a static caravan. On the eastern pitch no more than 3 caravans (as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968) shall be stationed at any time, of which only 1 caravan shall be a static caravan.
- 3) Save for activities in connection with the keeping of horses, no commercial activities shall take place on the site, including the storage of materials.
- 4) Other than one vehicle of 7.5 tonnes, no vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 5) There shall be no external lighting on the site other than in accordance with a scheme submitted to and previously agreed in writing with the local planning authority.
- 6) The residential use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the

purposes of such use shall be removed within 28 days of the date of failure to meet any one the requirements set out in (i) to (iv) below:

- i) within 3 months of the date of this decision a scheme (hereinafter referred to as the site development scheme) showing details of:
 - a) the internal layout of the site including the extent of the two residential pitches, the siting of caravans, vehicle parking (including a designated area for the parking of the 7.5 tonne lorry) and turning areas, buildings and hard standing;
 - b) all boundary treatments and all other means of enclosure (including internal sub-division) and incorporating the replacement of the existing close board fencing;
 - c) a repositioned access to Park Wood Road including sight lines, landscape works, surfacing materials and details of any gate proposed; and
 - d) a Landscape Scheme and Ecological Management Plan for the site to include
 - the creation of and retention of an ancient woodland buffer strip;
 - the creation and retention of a habitat buffer strip between the road and ditch;
 - the creation and retention of a habitat buffer around the pond; and
 - the creation of a log pile within the pond habitat buffer

shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

- ii) Within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 7) Following implementation of the details approved in condition 6, there shall be no change to any of the approved details. The parking and turning areas shall be kept available for their designated use at all times.
 - 8) If within a period of 5 years from the date of the implementation of the site development scheme required by condition 6 any tree or plant comprised in that scheme, or any tree or plant planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size (as is reasonably practicable) shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

Bridget M Campbell

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr B Woods	WS Planning and Architecture
Mr K Harrington	Appellant
Mr S Peckham	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Miss A Marks	Principal Planning Officer
Miss G Alexander	Planning Officer (Enforcement)
Miss S Buell	Biodiversity Officer, Kent County Council
Mrs L Rowlands	Development Planner, Kent County Council, Highways and Transportation

INTERESTED PERSONS:

Ms S Timmins	Local resident
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DOCUMENTS submitted at the hearing

- 1 Letter of notification of hearing date
- 2 Letter from P Roestenburg dated 16 April 2013
- 3 Letter dated 24 January 2013 from Customer services, Maidstone BC
- 4 Extract from Interim Approval of Maidstone Borough Local Plan Policies
13 March 2013
- 5 Statement from Miss Buell dated 13 May 2013
- 6 Photographs of tree stumps

Annex 1

Notice 1 – Parkwood Stables

The breach of planning control alleged

Without planning permission, the change of use of the land from agriculture to a mixed use comprising agriculture, the stationing of caravans (including mobile homes) for residential occupation, the keeping of horses, the parking and storage of motor vehicles unconnected with agriculture, the parking and storage of a catering trailer, the stationing of metal storage containers and the placing of domestic and other paraphernalia all ancillary to the residential use and the keeping of horses on the land; and the carrying out of operational development being the laying of hardsurfacing and installation of a drainage pipe in a ditch and infilling around that pipe; laying of areas of hardsurfacing, including an internal trackway; the erection of a timber utility building; the erection of a timber stable building; the erection of fencing and gates; and the installation of a satellite dish.

The requirements of the notice and the time for compliance

- (i) Stop using the land outlined in red on the attached Plan A for the stationing of caravans (including mobile homes) for residential occupation.
Time for compliance: Three months.
- (ii) Stop using the land outlined in red on the attached Plan A for the keeping of horses.
Time for compliance: Three months.
- (iii) Stop using the land outlined in red on the attached Plan A for the parking and storage of motor vehicles unconnected with agriculture.
Time for compliance: Three months.
- (iv) Permanently remove from the land shown outlined in red on the attached Plan A all caravans (including mobile homes).
Time for compliance: Three months.
- (v) Permanently remove from the land shown outlined in red on the attached Plan A all parked and stored motor vehicles unconnected with agriculture.
Time for compliance: Three months.
- (vi) Permanently remove from the land shown outlined in red on the attached Plan A the stationed catering trailer.
Time for compliance: Three months.
- (vii) Permanently remove from the land shown outlined in red on the attached Plan A all stationed metal storage containers.
Time for compliance: Three months.

- (viii) Permanently remove from the land shown outlined in red on the attached Plan A all domestic and other paraphernalia ancillary to the residential use and the keeping of horses on the land.
Time for compliance: Three months
- (ix) Permanently excavate the hardsurfacing, ditch infill and drainage pipes constructed at the access to the land from Park Wood Lane and shown coloured yellow in the approximate position on the attached Plan B.
Time for compliance: Five months.
- (x) Take up and permanently remove from the land shown outlined in red on the attached Plan A all the hardsurfacing, including the internal trackway, shown coloured grey in the approximate positions on the attached Plan B and remove all resultant rubble, waste, material and debris from the land.
Time for compliance: Four months.
- (xi) Dismantle and permanently remove from the land shown outlined in red on the attached Plan A the timber utility building and the timber stable building coloured green in the approximate positions on the attached Plan B and remove all resultant rubble, waste, material and debris from the land.
Time for compliance: Four months.
- (xii) Dismantle and permanently remove from the land shown outlined in red on the attached Plan A all fencing and gates coloured blue in the approximate positions on the attached Plan B.
Time for compliance: Four months.
- (xiii) Permanently remove from the land shown outlined in red on the attached Plan A the satellite dish coloured orange in the approximate position on the attached Plan B.
Time for compliance: Four months.
- (xiv) Following compliance with steps (ix), (x) and (xi) above, restore the land previously covered by the hardsurfacing, timber utility building, and timber stable building to its previous condition and levels by ripping the ground in two directions to 300mm depth, re-spreading topsoil over that land to a depth of 150mm or more where necessary to fill in any depression, and grading and spreading topsoil over any depressions left to leave a level surface.
Time for compliance: Five months
- (xv) Permanently close off the access to Park Wood Lane by erecting a one metre high post and wire fence across the full width of the access.
Time for compliance: Five months.

Annex 2

Notice 2 – Three Sons

The breach of planning control alleged

Without planning permission, the change of use of the land from agriculture to the stationing of caravans (including mobile homes) for residential occupation and the parking and storage of motor vehicles unconnected with agriculture and the placing of domestic and other paraphernalia ancillary to the residential use on the land; and the carrying out of operational development being the laying of hardsurfacing; and the erection of fencing and gates.

The requirements of the notice and the time for compliance

- (i) Stop using the land outlined in red on the attached Plan A for the stationing of caravans (including mobile homes) for residential occupation.
Time for compliance: Three months.
- (ii) Stop using the land outlined in red on the attached Plan A for the parking and storage of motor vehicles unconnected with agriculture.
Time for compliance: Three months.
- (iii) Permanently remove from the land shown outlined in red on the attached Plan A all caravans.
Time for compliance: Three months.
- (iv) Permanently remove from the land shown outlined in red on the attached Plan A all parked and stored motor vehicles unconnected with agriculture.
Time for compliance: Three months.
- (v) Permanently remove from the land shown outlined in red on the attached Plan A all domestic and other paraphernalia ancillary to the residential use of the land.
Time for compliance: Three months
- (vi) Take up and permanently remove from the land shown outlined in red on the attached Plan A all the hardsurfacing shown coloured grey in the approximate positions on the attached Plan B and remove all resultant rubble, waste, material and debris from the land.
Time for compliance: Four months.
- (vii) Dismantle and permanently remove from the land shown outlined in red on the attached Plan A all fencing and gates coloured blue in the approximate positions on the attached Plan B.
Time for compliance: Four months.
- (viii) Following compliance with steps (vi) above, restore the land previously covered by the hardsurfacing to its previous condition and levels by ripping the ground in two directions to 300mm depth, re-spreading topsoil over that

land to a depth of 150mm or more where necessary to fill in any depression, and grading and spreading topsoil over any depressions left to leave a level surface.

Time for compliance: Five months

Annex 3

Notice 1 – Parkwood Stables

The breach of planning control alleged

Without planning permission, the change of use of the land from agriculture to a mixed use comprising ~~agriculture~~, the stationing of caravans (including mobile homes) for residential occupation, the keeping of horses, the parking and storage of motor vehicles unconnected with agriculture, the parking and storage of a catering trailer, ~~and the stationing of metal storage containers for storage use and the placing of domestic and other paraphernalia all ancillary to the residential use and the keeping of horses on the land~~; and the carrying out of operational development being the laying of hardsurfacing and installation of a drainage pipe in a ditch and infilling around that pipe; laying of areas of hardsurfacing, including an internal trackway; the erection of a timber utility building; the erection of a timber stable building; the erection of fencing and gates; and the installation of a satellite dish.

The requirements of the notice and the time for compliance

- (i) Stop using the land outlined in red on the attached Plan A for the stationing of caravans (including mobile homes) for residential occupation.
Time for compliance: Three months.
- (ii) Stop using the land outlined in red on the attached Plan A for the keeping of horses.
Time for compliance: Three months.
- (iii) Stop using the land outlined in red on the attached Plan A for the parking and storage of motor vehicles unconnected with agriculture, ~~for the parking and storage of a catering trailer and for the stationing of metal containers for storage use~~.
Time for compliance: Three months.
- (iv) Permanently remove from the land shown outlined in red on the attached Plan A all caravans (including mobile homes).
Time for compliance: Three months.
- (v) Permanently remove from the land shown outlined in red on the attached Plan A all parked and stored motor vehicles unconnected with agriculture.
Time for compliance: Three months.
- (vi) Permanently remove from the land shown outlined in red on the attached Plan A the ~~stationed~~ catering trailer.
Time for compliance: Three months.
- (vii) Permanently remove from the land shown outlined in red on the attached Plan A all ~~stationed~~ metal ~~storage~~ containers.
Time for compliance: Three months.

- (viii) Permanently remove from the land shown outlined in red on the attached Plan A all domestic and other paraphernalia ~~ancillary to~~ introduced to facilitate the residential use and the keeping of horses on the land.

Time for compliance: Three months

- (ix) Permanently excavate the hardsurfacing, ditch infill and drainage pipes constructed at the access to the land from Park Wood Lane and shown coloured yellow in the approximate position on the attached Plan B.

Time for compliance: Five months.

- (x) Take up and permanently remove from the land shown outlined in red on the attached Plan A all the hardsurfacing, including the internal trackway, shown coloured grey in the approximate positions on the attached Plan B and remove all resultant rubble, waste, material and debris from the land.

Time for compliance: Four months.

- (xi) Dismantle and permanently remove from the land shown outlined in red on the attached Plan A the timber utility building and the timber stable building coloured green in the approximate positions on the attached Plan B and remove all resultant rubble, waste, material and debris from the land.

Time for compliance: Four months.

- (xii) Dismantle and permanently remove from the land shown outlined in red on the attached Plan A all fencing and gates introduced to facilitate the unauthorised uses and coloured blue in the approximate positions on the attached Plan B.

Time for compliance: Four months.

- (xiii) Permanently remove from the land shown outlined in red on the attached Plan A the satellite dish coloured orange in the approximate position on the attached Plan B.

Time for compliance: Four months.

- (xiv) Following compliance with steps (ix), (x) and (xi) above, restore the land previously covered by the hardsurfacing, timber utility building, and timber stable building to its previous condition and levels by ripping the ground in two directions to 300mm depth, re-spreading topsoil over that land to a depth of 150mm or more where necessary to fill in any depression, and grading and spreading topsoil over any depressions left to leave a level surface.

Time for compliance: Five months

- (xv) Permanently close off the access to Park Wood Lane by erecting a one metre high post and wire fence across the full width of the access.

Time for compliance: Five months.

Annex 4

Notice 2 – Three Sons

The breach of planning control alleged

Without planning permission, the change of use of the land from agriculture to the stationing of caravans (including mobile homes) for residential occupation and the parking and storage of motor vehicles unconnected with agriculture ~~and the placing of domestic and other paraphernalia ancillary to the residential use on the land;~~ and the carrying out of operational development being the laying of hardsurfacing; ~~and the erection of fencing and gates.~~

The requirements of the notice and the time for compliance

- (i) Stop using the land outlined in red on the attached Plan A for the stationing of caravans (including mobile homes) for residential occupation.
Time for compliance: Three months.
- (ii) Stop using the land outlined in red on the attached Plan A for the parking and storage of motor vehicles unconnected with agriculture.
Time for compliance: Three months.
- (iii) Permanently remove from the land shown outlined in red on the attached Plan A all caravans.
Time for compliance: Three months.
- (iv) Permanently remove from the land shown outlined in red on the attached Plan A all parked and stored motor vehicles unconnected with agriculture.
Time for compliance: Three months.
- (v) Permanently remove from the land shown outlined in red on the attached Plan A all domestic and other paraphernalia ~~ancillary to~~ introduced to facilitate the residential use of the land.
Time for compliance: Three months
- (vi) Take up and permanently remove from the land shown outlined in red on the attached Plan A all the hardsurfacing shown coloured grey in the approximate positions on the attached Plan B and remove all resultant rubble, waste, material and debris from the land.
Time for compliance: Four months.
- (vii) Dismantle and permanently remove from the land shown outlined in red on the attached Plan A all fencing and gates ~~introduced to facilitate the unauthorised uses and~~ coloured blue in the approximate positions on the attached Plan B.
Time for compliance: Four months.
- (viii) Following compliance with steps (vi) above, restore the land previously covered by the hardsurfacing to its previous condition and levels by ripping

the ground in two directions to 300mm depth, re-spreading topsoil over that land to a depth of 150mm or more where necessary to fill in any depression, and grading and spreading topsoil over any depressions left to leave a level surface.

Time for compliance: Five months

REPORT SUMMARY

REFERENCE NO - 16/504047/FULL		
APPLICATION PROPOSAL Demolition of existing dwelling and redevelopment of a site to provide 3 residential dwellings		
ADDRESS Crossways, Maidstone Road, Sutton Valence, Kent, ME17 3LR		
RECOMMENDATION		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal, by virtue of being well screened and set back from the A274, the relatively sustainable location (as found by the Inspectors determining the appeals at The Oaks, Land at The Wind Chimes and Land at Four Wents Orchard, located near to this site), the retention of existing planting/hedging along the A274 and additional planting, the use of the existing vehicle access and pattern of neighbouring residential development, results in negligible impact on the openness or rural amenities of the countryside thereby, in the particular circumstances of this case, resulting in grounds to override Policy ENV28 and emerging Policy SP17 and grant planning permission.		
REASON FOR REFERRAL TO COMMITTEE Called in by Sutton Valence Parish Council who have recommended permission is refused. The proposal is also a departure from the development plan.		
WARD Sutton Valence And Langley	PARISH/TOWN COUNCIL Sutton Valence	APPLICANT Burbridge AGENT Prime Building Consultants Ltd
DECISION DUE DATE 06/07/16	PUBLICITY EXPIRY DATE 09/12/16	OFFICER SITE VISIT DATE 13/06/2016
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): 85/1213 - Two storey rear extension, single storey kitchen and erection of detached double garage – Permitted		

1.0 DESCRIPTION OF SITE

- 1.1 The site is located on the east side of the A274 (Maidstone Road) just north of the Warmlake Crossroads (Maidstone Road). The site comprises a two storey detached residential property located on a large plot of approx. 0.3 hectares. The existing dwelling on the site is set back some 30m from the road behind a mature hedge / tree lined front boundary. Glimpses of the house are afforded from the vehicle access onto the A274. Behind the house adjacent the east and north boundary is a tennis court. There is a small cluster of single storey outbuildings located on the northwest boundary. A majority of the site boundary is comprised of mature trees and hedgerow. Vehicle access is taken from the A274.
- 1.2 To the south, west and east of the site are further residential properties. To the northeast and west of the site are fields and open countryside. This area has been described as semi-rural in character and relatively sustainable in recent housing development appeals. The site is located within the open countryside as designated in the Local Plan 2000 and emerging new local plan.

2.0 PROPOSAL

- 2.1 Demolition of the existing house and erection of three five bed detached houses (one with attached garage), two double garages, parking and turning areas and additional trees and landscaping.
- 1.2 The existing vehicle access off the A274 would be utilised. The vehicle access would be upgraded to tarmac and granite set for the first 5m from the road and the remaining driveway finished in gravel. The existing entrance and driveway would be widened to approx 3.7m.
- 1.3 Plot 2 and 3 would be located side by side towards the back / eastern boundary of the site. These two houses would be located some 45m distance from the A274. New tree planting is proposed in the front of these two houses adjacent the shared driveway. Plot 1 would be located adjacent the south boundary and would be set back some 18m distance from the A274 and west boundary of the site.
- 1.4 The three dwellings would be a traditional design and materials are proposed to be facing brickwork, clay hanging tiles and plain roof tiles and painted timber windows.

2.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: ENV28
Emerging Local Plan: Draft Policy SP17, DM1 and DM34

3.0 AMENDMENTS

- 3.1 Amended plans were received on 29.10.2016 reducing the proposal from four to three houses. Neighbours, the Parish Council and original consultees were re-consulted on the amended plans.

4.0 LOCAL REPRESENTATIONS

- 4.1 Parish Council: *'The Parish Council resolved that this application be refused and are prepared to go to Committee. This is back garden development, over development of a semi rural site, access on to a dangerous road and the accumulative effect of yet another application in this area is detrimental to the character landscape and urbanising this area'*.
- 4.2 Neighbours: Some five neighbours have objected raising the following summarised comments:
 - Dangerous access on the A274.
 - Additional traffic generated.
 - Unsustainable location.
 - Overdevelopment of the site.
 - Design is not in keeping with the area.
 - Erosion of the environment.
 - This is back garden development not brownfield development.
 - Loss of privacy and outlook.
 - Increased pressure on local services and facilities.
 - Contrary to saved policy H27.
 - The council can demonstrate a 5 year supply of housing.

5.0 CONSULTATIONS

- 5.1 KCC Highways: No objection subject to conditions.
- 5.2 KCC Heritage: No comments to make.
- 5.3 Environmental Health: No objections subject to conditions.

6.0 APPRAISAL

Principle of Development and Policy Background

- 6.1 The site lies within the open countryside where Saved policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 states:-

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

- (1) That which is reasonably necessary for purposes of agriculture and forestry; or*
 - (2) The winning of minerals; or*
 - (3) Open air recreation and ancillary buildings providing operational uses only; or*
 - (4) The provision of public or institutional uses for which a rural location is justified; or*
 - (5) Such other exceptions as indicated by policies elsewhere in this plan.*
- Proposals should include measures for habitat restoration and creation to ensure that there is no net loss of wildlife resources.*

- 6.2 The proposed development does not fit into any of the exceptions set out in policy ENV28 hence why it will need to be advertised as a departure if approved.
- 6.3 In terms of emerging policies from the submitted version of the Draft Maidstone Local Plan 2016, policy SP17 seeks to protect the countryside from harm and sets out development which will be considered acceptable, again, the current proposal does not fall within any of the prescribed criteria; policy DM1 sets out principles of good design and policy DM34 allows for high quality of design development in the countryside provided certain criterion are met.
- 6.4 Paragraph 17 of the NPPF requires planning to “take account of the different roles and character of different areas... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities.”
- 6.5 Paragraphs 57 of the NPPF attaches great importance to the design of the built environment and considers it key to sustainable development. It is indivisible from good planning and should contribute positively towards making places better for people.
- 6.6 Paragraph 58 of the NPPF states that developments should function well and add to the overall quality of an area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history, create safe and accessible environments and be visually attractive as a result of good architecture and appropriate landscaping.
- 6.7 Recent appeals for housing developments have been granted in proximity to the application site at The Oaks located to the north of the site, Land at The Wind

Chimes located to the south of the site and Land at Four Wents Orchard located to the east of the site and the Inspectors found this area to be a sustainable location. A recent application for a new house in the residential garden at The Gable adjacent Five Wents Cross Road was approved at committee as it was found to be at a sustainable location and acceptable in terms of the impact on the open countryside even though the council can currently demonstrate a 5 year supply of housing.

Visual Impact and Impact on Character and Appearance

- 6.8 It is acknowledged that the site lies outside any defined settlement boundary and accordingly fails to comply with Policy ENV28 and emerging Policy SP17. However, the main aim as identified in ENV28, is to protect the countryside from harm to the character and appearance of the area or the amenities of surrounding occupiers. The proposal should therefore be assessed on the basis of whether actual harm to the character and appearance of the area or impact on neighbours can be identified. Paragraph 111 NPPF provides that brownfield land is where development ought to be prioritised.
- 6.9 In the circumstances of this application, the proposal would not open the site up to the Maidstone Road as the existing vehicle access would be utilised. In addition, the existing mature boundary treatment along the west and northwest boundary of the site would be maintained and would serve to screen and soften the impact of the proposed development. The proposed houses would be set back some 45m and 18m from the road frontage behind existing and proposed tree and hedgerow planting. As a result of the set back from the road and landscape screening it is considered that the proposed development would not appear significantly dominant or prominent within the streetscape. The existing house is located in a central position within the site and glimpsed views of the house are afforded from the entrance driveway and gates. The proposed location of the three replacement houses are considered to be no more prominent within the streetscape than the existing property by reason of the siting, set back and boundary screening or indeed those of the adjoining properties.
- 6.10 The three houses would have a typical residential design and would not appear significantly out of keeping with the surrounding area as a result.
- 6.11 The two properties towards the rear of the site would be broadly located on site of the existing tennis courts. This section of the A274 and Warmlake crossroads is characterised by various backland residential developments (including a scheme for 9 new house currently under construction at The Oaks to the north of the application site) and the proposal is considered to be in keeping with the pattern of the surrounding residential developments and would also mean that the proposal is not encroaching in to the open countryside but merely making use of the large garden of the application site. The proposed dwelling located towards south boundary of the application site would be set slightly further forward than the neighbouring house to the south of the site but would be in keeping with the general building line along this part of the A274 so as not to appear incongruous within its setting. The third dwelling would also be well screened from the road by the existing mature tree and hedgerow along the west boundary of the site and would not form a prominent part of the streetscape.
- 6.12 It is for these reasons that the proposal is not considered harm to the character and appearance of the area or the openness of the surrounding countryside. In the absence of harm I am of the view that material considerations exist to override the exceptions set out within adopted Policy ENV28 as the main thrust of the policy

would be met, as would the aims of draft Policy SP17 which also seeks to prevent harm.

- 6.13 In addition to the above, the design of the dwelling and the proposed double garage, in terms of their scale, form, aesthetic and materials would also be in keeping with the locality thereby respecting the site and its surroundings. For these reasons the proposal would accord with Paragraphs 17, 57 and 58 of the NPPF and Emerging Policies DM1 and DM34 in relation to design and visual amenity.

Residential Amenity

- 6.14 The houses on plots 2 and 3 would be located well away from any neighbouring residential properties and would not give rise to any unacceptable amenity issues. The house at plot 1 would be located some 9m distance from the neighbouring property to the south of the site with the flank wall of the proposed house facing the flank wall of the neighbouring property. One window is proposed at first floor level on the southern elevation of plot 1 and this window would serve a bathroom and an obscure glazing condition would overcome any perception of overlooking towards the shared boundary ver. Given the orientation of the house at plot 1 coupled by the existing boundary treatment and separation distances the proposal is not considered to result in any unacceptable loss of residential amenity in terms of loss of light, outlook or privacy.
- 6.15 Overall it is therefore considered that the proposed development would not have an unacceptable impact on residential amenity thereby complying with the neighbour amenity requirements of saved policy ENV28 and emerging Policy DM1 and in turn the proposal would accord with Paragraph 17 of the NPPF.

Accessibility/Highways

- 6.16 The site lies between Warmlake and the Sutton Road end of Maidstone where there are good bus links to Maidstone and Headcorn and occupiers could access the services at Sutton Valance on foot. For these reasons future occupiers would not be totally reliant on the private motorcar. This assessment accords with that of recent Inspectors on nearby sites.
- 6.17 The existing vehicle access from the A274 would be utilised. Adequate parking and turning areas would be provided on the site allowing vehicles to enter and leave the site in forward gear. KCC Highways have assessed the proposed access and raise no objection on highway safety grounds. For these reasons it is considered that the proposal would accord with Paragraph 32 of the NPPF and criteria ix of Draft Policy DM1 of the emerging Local Plan.

Landscaping

- 6.18 The application has been accompanied by a tree Survey which confirms a majority of the existing trees would be retained and no trees of significant amenity value would be removed. Further additional tree planting is proposed within the site to soften the visual impact of the development and as mitigation for trees that would be removed to facilitate the development. The tree survey constraints plan is considered to be acceptable and would ensure that the main trees on the site, and those within the highest amenity value to the public domain, are retained and protected for the life of the build.

6.19 A landscaping scheme could be secured by condition to ensure the proposed tree and landscaping comprise suitable native species. Overall I am therefore of the view that the proposal would be appropriate in terms of trees and future landscaping.

Other Matters

6.20 The site lies within an area of archaeological protection however in this instance KCC Heritage have not requested a watching brief. The development has no effects on the setting of any listed buildings to the west and northwest due to the distance an intervening development.

6.21 A preliminary ecological appraisal, reptile survey and bat survey have been undertaken and submitted in support of the proposal. No bats were found to be present on the site, including within the house. A majority of the site comprises managed garden, hard tennis courts, buildings and parking and turning areas, however, there are small pockets of unmanaged land in the southeast corner and an area adjacent the tennis courts. The proposal will entail the loss of a small amount of reptile habitat although the reptile report acknowledges that this reptile habitat is currently of poor quality, consisting of an area of cut bramble, weeds with piles of cut grass and a bonfire situated there, as well as a small area of uncut grass/nettles. The reptile survey recorded a low population of slow worms on the site. The report advises that it is possible to maintain the population on site by trapping and securing species prior to development and then providing a reptile habitat such comprising a strip of meadow grassland along the southern boundary of the site, outside the area of development. The layout has been amended since the reptile survey and report was undertaken. The southern part of the site identified in the report would still be suitable as a trapping area and future reptile habitat. However, the habitat proposed behind the garages at plot 3 and 4 would be lost, although in my view these would not have provide long term habitats as this area would have been located in private gardens. The revised layout frees up a piece of land in the south east corner of the site from development which may be better suited as a long term reptile habitat once the development is complete and I feel an update to the reptile report could be secured by condition to cover this matter. A condition could also secure further ecological enhancements within the site.

7.0 CONCLUSION

7.1 In light of the above considerations, whilst the site falls within the countryside, due to the particular circumstances of the site, the retention of the existing Maidstone Road frontage landscaping and trees, the set back from the road and screening, and the conformity with the existing building line and pattern of development; the proposal would not result in an unacceptable level of harm to the character or appearance of the surrounding area or the openness of the countryside.

7.2 Appeals at nearby sites; including The Oaks, Land at The Wind Chimes and Land at Four Wents Orchard, found this area to a sustainable location for housing development. A recent application for a new house in the residential garden of a property known as The Gable located adjacent Five Wents Cross Road was approved at committee as it was found to be at a sustainable location and acceptable in terms of the impact on the open countryside even though the council can currently demonstrate a 5 year supply of housing

7.2 The proposal would respect the amenity of neighbouring properties and protect the significant trees on the site; provides a safe access with ample on-site parking and turning; and is at a relatively sustainable location. In addition, the overall design of

the new dwellings is considered to be appropriate for the site in terms of siting, scale, layout and materiality.

- 7.3 These circumstances specific to this application are considered sufficient grounds to depart from policy ENV28 in respect of the types of developments listed under this policy, and emerging Policy SP17 of the Draft MLP; and accords with paragraphs 17, 32, 57 and 58 of the NPPF and policies DM1 and DM34 of the Draft MLP. As such permission is recommended subject to the following conditions.

- 8.0 RECOMMENDATION** – The Head of Planning & Development be given delegated powers to grant planning permission subject to the expiry of the newspaper advert and no material new issues raised, and subject to the following conditions:

CONDITIONS:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements 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:

014.1678-004 Rev P2, 014.1678-005 Rev P2, 014.1678-006 Rev P2; received 29.10.2016 and 014.1657-PL.001, 014.1678-PL.020, 014.1978-PD.003, CW/TSP/1147-01, ALS7123/100/01, 014.1657-PL.002, CW/TCP/1147-02; received 10.05.2016

Reason: To clarify which plans have been approved.

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

Reason: To ensure a satisfactory appearance to the development.

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

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

5. Prior to the commencement of development above slab level details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter;

Reason: To ensure an energy efficient form of development.

6. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.

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

7. No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

8. Prior to the occupation of the buildings hereby permitted, a minimum of one electric vehicle charging point shall be installed upon or within the approved garage buildings at each of the properties. The charging point shall be maintained and retained in perpetuity.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.

9. The development shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity by means such as swift bricks, bat tubes or bricks, hedgehog nesting boxes and the provision gaps under any new fencing to allow hedgehogs access onto all garden areas. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

10. No development shall take place above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed. It shall include a planting specification, a programme of implementation and a 5 year management plan.

Reason: In the interests of visual amenity and landscape impact.

11. All planting, seeding and turfing specified in the approved landscape details shall be completed no later than the first planting season following occupation. All such

landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: In the interests of visual amenity.

12. Prior to the commencement of development and site clearance an updated reptile survey, identifying an area of reptile habitat along the southern boundary / southeast corner of the site, shall be submitted to and approved in writing by the local planning authority. The development and site clearance shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

Case Officer: Andrew G J Jolly

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

REPORT SUMMARY

REFERENCE NO - 16/505632/FULL		
APPLICATION PROPOSAL Removal of condition 7 (operating hours) of previously approved 14/504694/FULL to allow 24hr operation.		
ADDRESS 1 - 17 The Broadway Maidstone Kent ME16 8QX		
RECOMMENDATION – Temporary permission for 6 months within 2 years of this decision		
SUMMARY OF REASONS FOR RECOMMENDATION The impact of the proposed operation (when taken as a whole) is considered to be low and the Environmental Protection Team has not recommended refusal of the application on the likely level and frequency of disturbance from the proposed 24hr operation. As such, a proposed 6 month trial (within 2 years of this decision) will provide the minimum time necessary to see how in reality such a use will impact upon local residents. For the reasons outlined, a temporary permission for 6 months within 2 years of this decision is recommended on this basis.		
REASON FOR REFERRAL TO COMMITTEE - Councillors Harper and Adkinson wish to see the application presented to Planning Committee		
WARD Fant	PARISH COUNCIL – N/A	APPLICANT McDonald's Rest Ltd. AGENT Savills (UK) Limited
DECISION DUE DATE 29/05/17	PUBLICITY EXPIRY DATE 25/01/17	OFFICER SITE VISIT DATE 06/01/17
RELEVANT PLANNING HISTORY:		

15/510353 - Application to remove condition 8 of MA/13/0921 – To allow 24hr operation - Withdrawn

14/504694 - Variation of condition 20 of MA/13/0921 to allow minor-material amendments – Approved

MA/13/0921 - Partial (almost complete) demolition of existing car dealership and construction of two storey restaurant with associated drive-thru, car parking and associated works (resubmission of MA/12/1843) as s – Approved

MA/12/1843 - Demolition of existing car dealership and erection of restaurant with associated drive-thru, car parking and associated works - Refused

MAIN REPORT

1.0 Site description

1.01 The proposal site is occupied by McDonald's restaurant and drive-thru; and The Broadway runs along the site's northern boundary, with Barker Road to the east and Hart Street to the south. Vehicle access into the site is from Hart Street, and pedestrian access is also possible from here and from the corner of The Broadway and Barker Road. The Broadway Shopping centre is to the north of the site; a newsagent shop and the law courts are to the east; to the west there are residential flats in 19-21 The Broadway (Grade II listed buildings) and Broadway Heights beyond; and a terraced row of (three storey) properties is located to the south that includes takeaway restaurants and a barbers. Lockmeadow leisure centre is further to the south of the site. For the purposes of the 2000 Local Plan, the proposal site is within the defined urban area.

2.0 Proposal

- 2.01 This application is proposing that the business (including the restaurant and the drive-thru) is open to customers for 24 hours, Monday to Sunday; and seeks the removal of condition 7 of planning permission 14/504694 which states:

The premises shall not be open for customers outside the hours of 06:00 to 00:00hrs Mondays to Sundays;

Reason: To safeguard enjoyment of properties by adjoining residential occupiers.

- 2.02 In the covering letter, the applicant states that the proposal would ensure the restaurant is better able to meet the needs of its customer base and enhance the overall efficiency of the restaurant. In summary, the covering letter also sets out the following justification:

- *There are no residential properties within close proximity of the site – covering letter omits the fact that there are residents immediately to west of proposal site.*
- *Noise already generated from A20 contributes towards background noise levels; and the fact that majority of trips to restaurant will be linked trips from shift workers/emergency services and delivery vehicles etc..., would result in no further unacceptable traffic generation to and from site during extended hours of use.*
- *Submitted NIA concludes that noise impact from extension of hours would only cause a “low risk of observable effect” and no mitigation is required.*
- *Good economic benefits of employing 30 additional staff and giving additional hours for existing staff*

3.0 Policies and other considerations

- Maidstone Borough-Wide Local Plan 2000: R17
- National Planning Policy Framework (2012)
- National Planning Practice Guidance (2014)
- Submitted version of Local Plan: SP4, DM1
- Noise Policy Statement for England (2010)

4.0 Consultee responses

- 4.01 **Councillor Harper:** If minded to approve, application should be reported to Planning Committee;

“My grounds for call in are fact of local concern this is causing in the community as well as following:

- *Drive through is inappropriate on this site, there should be strict limitation on opening hours and these should not be extended.*
- *Extending opening hours will have detrimental impact on other long established neighbouring businesses.*
- *There are insufficient containment measures to prevent this operation being a bad neighbour especially to residents of adjacent Broadway Heights.*
- *When site is open due to insufficient flues the smell of fat fryers percolates Broadway Heights, extending opening hours will cause and aggravate already identified mental and physical health issues.*
- *Impact to Local Road Network, currently there are frequently long delays and traffic backing up causes by traffic trying to exit the site, extending this with no remediation will cause further environmental degrading of the neighbourhood.*
- *There will be further bad social behaviour if open into the night with people who are drunk from all night drinking in the town centre night time economy.*
- *Staff blowing whistles all night will keep people awake.*
- *Increase in Litter etc.*
- *A 24 hour 7 day a week opening will only blight our area and Broadway Heights further. There is a new drive in in Aylesford and this one is not needed.”*

- 4.02 On review of the amended Noise Impact Assessment, further objections received by Councillor Harper were as follows:

"I have reviewed the recent Noise Assessment Update and consider this wilfully short sighted. Its remit is just limited to noise and issues affecting residents and other people include air quality and smell from the fryers etc, which pervades area and blights the Broadway Heights Flats. On new document I raise following points:

- 1. Address of the site varies in the report!*
- 2. Refers to mixed area, buildings adjoining site are blocks of flats including Broadway Heights, so more residential in character.*
- 3. Report seems to ignore likely noise and environmental impact from plant running 24x7, and car and noise of people etc.*
- 4. McDonalds already attracts antisocial behaviour and this will only worsen in middle of night.*
- 5. Sound travels upwards, all noise assessments were done at ground level.*
- 6. Broadway Heights and Tonbridge Road flats are not blocked from noise from Tonbridge Road by McDonalds as claimed.*
- 7. No assessment of the current noise from Broadway Heights*
- 8. Most customers during period midnight to 6am are expected to arrive by car, problems of noise and other pollution will include engine noises, revving of cars, people chatting whilst walking across car park, music from parked cars especially bass music etc*
- 9. Assessment is not valid, whilst Ashford is a nice town it is not acknowledged night capital of Kent, therefore comparison is not valid. Usage of Maidstone site will be considerably higher and will have a lot of night time revellers etc*
- 10. Noise mitigation plan is woefully inadequate, indeed it is not a plan at all. Reporting information via a log to Police will have no impact, police are not reactive to complaints. There is no attempt for proactive remediation, simply because there is not any possible."*

- 4.03 **Councillor Adkinson:** Commented that If minded to approve application it should be reported to Planning Committee.

- 4.04 **Councillor Bird (KCC - Maidstone Central):**

"I am writing in support of residents living in Broadway Heights and other local areas who object to the extension of operating hours of this McDonalds outlet. My reasons for objecting are as follows:

- Drive through is totally inappropriate at this town centre site. Should be strict limitation on opening hours; an extension would exacerbate problems currently being experienced in area.*
- Applicant recognises there will be significant all night noise from restaurant which will have severe detrimental impact on residents of Broadway Heights. While proposed mitigations will help, they will not stop additional all night noise. I note that Environmental Health officer has recommended refusal because of inadequate noise impact measures.*
- Smell of fat fryers percolates Broadway Heights because flues are inadequate. Extending opening hours will aggravate already identified environmental, social and health issues for local residents."*

- 4.05 **Environmental Protection Team:** Recommends temporary permission to operate for 24hrs for a set period of 6 months (see main body or report for details).

- 4.06 **MBC Environmental Enforcement Team:** There has been 1 complaint about noise since the restaurant/drive-thru has been in operation that was due to an internal alarm that sounded for a few seconds when staff entered to open up the restaurant.

- 4.07 **MBC Licencing Department:** No direct complaints have been received relating to the premises from a licensing point of view; and a view cannot be given on the acceptability of a 24hr use.

- 4.08 **MBC Community Safety Partnerships Officer:** Raises no objection.

- 4.09 **Kent Police:** Have no comments to make.

- 4.10 **KCC Highways Officer:** Raised no objection under 15/510353.

4.11 **Conservation Officer:** Raises no objection on heritage grounds.

5.0 **Local residents:** 20 representations have been made raising concerns over noise and disturbance; antisocial behaviour; odours; litter; and traffic congestion.

6.0 Principle of development

6.01 The principle for a restaurant in this location has already been accepted under previous approved applications; and the development has been implemented and is operational. However, still of relevance to this application is saved policy R17 of the adopted Local Plan which states:

THE COUNCIL WILL PERMIT HOT FOOD SHOPS, RESTAURANTS, CAFES, BARS AND PUBLIC HOUSES OUTSIDE THE CORE SHOPPING AREA TO WHICH POLICY R7 APPLIES, PROVIDED THAT THE FOLLOWING CRITERIA ARE MET:

- (1) *THAT THERE IS NO DETRIMENTAL EFFECT, BY REASON OF HOURS OF OPENING, FUMES AND SMELLS OR NOISE AND DISTURBANCE, TO NEARBY OR ADJOINING USES AND ESPECIALLY RESIDENTIAL AMENITY; AND*
- (2) *THAT THE EFFECT OF ONE OR A CONCENTRATION OF SUCH USES WOULD NOT BE DETRIMENTAL TO THE VITALITY AND VIABILITY OF ANY DISTRICT OR LOCAL CENTRES WITHIN WHICH THEY MAY BE LOCATED.*

6.02 The purpose of the planning system is to contribute to the achievement of sustainable development and in the Government's view, as contained within the National Planning Policy Framework (NPPF), there are 3 dimensions to sustainable development, those being economic, social and environmental. These roles should not be undertaken in isolation, and this proposal seeks to increase trade and the ongoing viability of the business. However, this potential economic benefit must be balanced against any adverse environmental and social impacts; and of particular relevance here is the 'social' role of sustainable development. This is where support should be given to supporting strong, vibrant and healthy communities, by creating a high quality built environment that reflects the community's needs and support its health, social and cultural well-being.

6.03 Paragraph 123 of the NPPF also states that planning decisions should aim to ".....avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development". This wording is based on DEFRA's Noise Policy Statement for England (2010) (NPSE). Paragraph 17 of the NPPF also states that 1 of the 12 principles are that planning should "...always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".

6.04 The submitted version of the Local Plan is also considered to hold significant weight. Emerging policy SP4 seeks to regenerate Maidstone town centre and emerging policy DM1 seeks to respect the amenities of occupiers of neighbouring properties. The submitted version of the Local Plan is subject to main modifications and public consultation on these was carried out between 31st March and 19th May.

7.0 Residential amenity

7.01 The current hours of operation, as requested by the applicant under the original application, were restricted under condition 7 of 14/504694, in order to safeguard the enjoyment of properties by adjoining residential occupiers. As such, the key issue for this proposal is to consider what impact there would be on the living conditions of local residents who live in the flats at 19-21 The Broadway and Broadway Heights, if the restaurant and premises were open between the hours of midnight and 6am.

- 7.02 The submitted amended Noise Impact Assessment (NIA) (received 23/12/16) states there are 3 main identified potential noise sources related to this proposal, those being people, vehicles and plant. The NIA then confirms that the proposal is likely to generate noticeable noise in terms of people and vehicle noise (but with no change in impact of plant noise). However, the NIA also states that the level of noise impact likely from this proposal would not be detrimental to existing quality of life for local residents, whilst accepting that mitigation should be considered to minimise the potential noise impact.
- 7.03 The report has concluded that the noise from the extended operation represented *Lowest Observable Effects Level* (LOEL) for the three main categories of noise (people, vehicles and plant). LOEL is the level above which adverse effects on health and quality of life can be detected. Whilst there are no specific criteria set out in the NPPF and the NPSE to define the parameters of this, the report concludes that the proposal is not considered to cause a '*significant*' change and therefore is not contrary to paragraph 123 of the NPPF in this respect.
- 7.04 The Environmental Protection Team disagreed with this assessment and commented that based upon the information provided, the applicant's assessment of LOEL could not be substantiated by the methods, data and assumptions raised in the report. The Environmental Protection Team also considered the Noise Management Plan (NMP) that was submitted with the NIA to be "*woefully inadequate at controlling the impact of customer noise during the proposed extended hours*".
- 7.05 The applicant subsequently submitted additional noise impact information to address these concerns, as well as an amended NMP (Issue 6 - received 16/02/17) which sets out details of proposed measures which are and will be adopted by the restaurant to ensure the proposal does not trigger any unacceptable noise impacts.
- 7.06 On review of the updated information, the Environmental Protection Team are satisfied that it addresses their technical concerns; and they state that they are unable to argue with the technical conclusion of the report that the overall impact of the proposed operation is likely to represent a '*Low Observed Effect Level*'. This means that whilst it is acknowledged that some effect will be experienced, it will be at an overall low level that could be considered to be acceptable in terms of the guidance found in the NPPF.
- 7.07 However, the Environmental Protection Team also recognises that there will be some impact on nearby noise sensitive premises particularly from sporadic incidents such as shouting, car radios, noisy or defective cars etc; and whilst the NMP contains mitigation measures for when such incidents may occur, it is by its very nature reactive to those incidents meaning that disturbance will have been caused before it can be acted upon. It is difficult if not impossible to accurately predict the number or frequency of those occurrences on a day to day basis; and this element of unpredictability will increase the potential impact on neighbouring residents as if disturbed they will not know if they will be disturbed again making it more difficult to recover.

7.08 The measures set out in the NMP (to be implemented between 23:00-07:00) are summarised below;

NOISE SOURCE	CONTROL MEASURES
Minimising Vehicle Noise	<ul style="list-style-type: none"> - Staff shall be vigilant for vehicles arriving playing excessive noise and/or being driven deliberately to create noise after 2300. - Observational records should be made of registration plates in Incident log and where possible, CCTV footage used to provide evidence of culprits whom regularly cause antisocial behaviour. - Members of management team are required to quickly and safely challenge those creating unreasonable noise levels and request them to adjust their behaviour, to minimise noise and respect their neighbours. - Information on those causing antisocial behaviour (ASB), should it continue, will be recorded as an incident and reported.
People Noise	<ul style="list-style-type: none"> - Signs shall be prominently displayed that ask customers that come into premises to leave quietly in order to respect our neighbours. - We will work in partnership with police and other statutory authorities to address any nuisance or crime and disorder that generates noise outside the restaurant within the licence, which could include CIA staff on a risk assessment basis to achieve, where it is expected to be necessary to control noise. - Franchisee was awarded "MaidSafe" recognition because of their work, which will continue and is expected to be ongoing focus on minimising disorder and ASB. - Customers that are seen to be disregarding notices and or loitering outside after 2300 and making noise should be encouraged to come inside if they are eating, rather than be outside, or move on. Where this becomes confrontational an ASB trained Manager will attend and have the power bar the person. - Gatherings of people in car park who are not waiting to be served, should be challenged by the Manager, notified that they are on CCTV and recorded in Incident log.
Intercom (COD) and other Noise	<ul style="list-style-type: none"> - Intercom system should be set up such that its noise level is limited between hours of 2300- 0600, such that is it barely audible at closest premises. For this store a COD setting of 12 is to be trialled, with 10 as refinement if necessary. Use of jet wash should be restricted for use between 0800-2000. Outside hours of 0700-2300 intercom should be set up such that it reduces in noise level, such that is it barely audible at the closest premises.

7.09 With the information presented, the Environmental Protection Team has not made a conclusive recommendation. This is because the scientific evidence submitted demonstrates that the impact of the proposal will (when taken as a whole) be low; and whilst in their experience this premises operating between midnight and 6am could be problematic for those residents that overlook the site's car park, in terms of being disturbed by individual incidents, in this balanced case they have not recommended refusal of this application.

7.10 As such, the Environmental Protection Team have taken a finely balanced view that a temporary permission for 6 months would be the only way of properly assessing what the impact of such a proposal would be on local residents in terms of general noise and disturbance. Based on the evidence presented and the Environmental Protection Team's advice, a temporary permission is considered reasonable. 6 months is considered the minimum time necessary to allow local residents to raise issues/complaints with the store and the Council's Environmental Enforcement Team

as well as actively participate in complaint investigations; and this timeframe will also adequately cover the summer period when there is generally more outdoor activity and windows open etc. To allow time for the operator of the premises to implement the proposal (for example to arrange staffing) I consider a recommendation of 7 months to be reasonable.

8.0 Other considerations

8.01 Given the nature of the proposal, no further issues or objections are raised in terms of the proposal's impact on the character and appearance of the surrounding area (including heritage and its impact upon the setting of the adjacent listed buildings); highway safety/traffic congestion and parking provision; land contamination; litter; air quality; flood risk; landscaping/arboricultural issues; biodiversity; and its impact upon the Area of Archaeological Potential. With regards to odour, a condition imposed on the original application dealt with this and if the systems in place have failed this is a matter for the Environmental Health Protection Team.

8.02 The representations received from Councillor Harper, Councillor Adkinson, Councillor Bird and the local residents have been considered in the determination of this application; and I would add that the principle for this use has already been accepted and my assessment here is solely based on the potential impact of 24hr operation.

9.0 Conclusion

9.01 The Environmental Protection Team is not raising an objection to the technical details and the noise report's conclusion that the proposed operation is likely to represent a '*Low Observed Effect Level*', which is a level accepted under the NPPF. With regards to the NMP, this will provide mitigation for when sporadic incidents relating to the use of the premises happens, but it is accepted that it cannot prevent or control all incidences before they happen and neighbour disturbance is inevitable. However, the Environmental Protection Team has not recommended refusal of the application on the likely level and frequency of disturbance from the proposed 24hr operation and the proposed 6 month trial will provide the minimum time necessary to see how in reality such a use will impact upon local residents. For the reasons outlined, I therefore recommend a temporary permission for 6 months (within 2 years of this permission) on this basis.

10.0 RECOMMENDATION – APPROVE for temporary permission of 6 months (to start within 2 years of this permission):

(1) The restaurant premises and drive-thru may operate 24 hours a day on any day for a limited period of 6 months. The temporary period hereby approved must commence within two years of the date of this decision for a continuous period of 6 months and must include the months of July and August. The applicant must provide the local planning authority with written notification of the start and end date 10 days prior to first commencement.

Upon the expiry of the temporary period the restaurant may only operate between the hours of 06:00 hours to 00:00 hours on any day (as permitted under planning permission 14/504694);

Reason: In the interests of residential amenity.

- (2) Following the implementation of this permission and the commencement of the extension to the operating hours, the restaurant must operate in accordance with the provision of the Premises Noise Management Plan Report No. 14-0167-12 R01 Appendix B (Issue 6 - received 16/02/17) for the full 6 month temporary period;

Reason: In the interests of residential amenity.

- (3) The plant equipment to be used at the premises shall be so installed, maintained and operated in accordance with the acoustic report submitted and approved under MA/13/0921 that was carried out by Ian Sharland Ltd, ref: 5755/pja (received 23/05/13), and shall fulfil all the recommendations for noise mitigation specified in the report, so as to prevent the transmission of significant noise and/or vibration to any neighbouring premises;

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

- (4) The approved details of the parking/turning areas and vehicle loading/unloading areas shall be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

- (5) The development hereby permitted shall be carried out in accordance with the following approved plans (under 14/504695): BX-MW-AP-4120-STD-1.00(D), 6362-PL-405 Rev B and 6362-PL-406 Rev B received 14/10/14 and (excluding the alterations to 19-21 The Broadway) 6362-PL-404 Rev D received 13/01/15;

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

Case Officer: Kathryn Altieri

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

REPORT SUMMARY

REFERENCE NO - 16/506320/FULL			
APPLICATION PROPOSAL Erection of an extension to the existing school building for educational use.			
ADDRESS Jubilee Free School Gatland House Gatland Lane Maidstone Kent ME16 8PF			
RECOMMENDATION Approve subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The application is considered to comply with the relevant policies of the development plan and the approach of the National Planning Policy Framework (NPPF) and other relevant publications which represent material considerations in support of the application. The proposed extension and related impact of the additional floorspace and pupils is considered to be acceptable having regard to the relevant matters including design and layout of the school, relevant standards, access to playspace and open space, impact on amenity of neighbouring properties and highway matters.			
REASON FOR REFERRAL TO COMMITTEE Application has been called by local councillors in order the proposals can be debated at committee for reasons of public interest			
WARD Fant	PARISH/TOWN COUNCIL	APPLICANT Education Funding Agency AGENT JLL	
DECISION DUE DATE 31/10/16	PUBLICITY EXPIRY DATE 02/12/16	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
13/1709	Demolition of existing buildings and erection of 14 dwellings	Approved	14.4.2014
14/503957	Application for permanent change of use to a free school (Class D1)	Approved	12.11.2015
16/501502	Discharge of condition of 14/503957 relating to cycle, drop off/pick up and pedestrian access	Approved	17.6.2016
16/501507	Discharge of condition of 14/503957 Parent/Pupil drop off and School Travel Plan	Approved	16.6.2016
16/501509	Discharge of condition of 14/503957 relating to boundary	Approved	28.6.16
16/501512	Discharge of condition of 14/503957 landscaping scheme	Pending	
16/506322	Removal of Condition 2 relating to limits to pupil numbers as restricted by Condition 2 of 14/503957	Pending	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site is Jubilee Free School which was opened in September 2014 and currently has around 150 pupils. The school was granted planning permission under 14/503957 which granted permission for up to 240 pupils up to the year 2022 and 210 thereafter. The school forms part of the KCC Education commissioning plan 2016-20.
- 1.2 The building fronts onto Gatland Lane and is a two storey building with a rear two storey projection. To the rear are hard surfaced and a grassed areas with a parking area to the eastern part of the site. There are two vehicle access points into the site from Gatland Lane (either side of the buildings frontage) and there is a grass verge and low level wall for boundary treatment to the front of the site. Boundary treatment to the north (rear) and west largely consists of well established conifer trees; and to the east it is of close boarded fencing and some level of planting. To the east and south there are residential properties, with the rear gardens of properties in Sherbourne Drive backing onto the site: to the north a substation and then a playing field beyond; and to the west an access road and then a sports field.
- 1.01 The site covers an area of some 0.48 hectares and is within the defined urban area as identified by the Maidstone Borough-Wide Local Plan 2000 (MBWLP)

2.0 PROPOSAL

- 2.1 The proposal relates to the construction of a two storey extension to the existing school building which will facilitate the increase in pupil numbers to allow the school to accommodate up to 420 pupils within the site. The extension will also lead to an increase in staff to 35 members when the site is at full capacity from the existing 18 FTE (equivalent). There will be also be alterations to the internal parts of the existing building to create a logical layout to the school as well as changes to the external parts of the site including new plays areas and creation of a multi use court to the north of the site. 35 parking spaces (plus two disabled spaced) and cycle storage will be provided and the existing access arrangements will be retained and the site will continue to operate in accordance with the conditions placed upon the original consent 14/503957 (with the exception of condition 2 as set out below).
- 2.2 This application sits alongside application 16/506322/FUL which seeks to remove condition 2 from the original planning permission, 14/503957, which restricts pupil numbers at the school to 240 pupils before 2022 and then 210 pupils thereafter. Essentially, these applications, although separate, are mutually dependent upon one another as the extension is necessary to accommodate the additional pupils that would be permitted by the removal of condition 2 of 14/503957 and likewise, if the condition is not removed then there is no necessity for the extension. However, this application seeks to deal with the uncertainty that existed at the time of 14/503957 which was submitted for higher pupils but it was unclear how the site at that time could accommodate this level of pupils. This extension application sets out the additional floorspace that can accommodate the additional pupils as a two form entry (2FE) primary school.
- 2.2. The extension will be located to the north west boundary of the site, running from the rear of the existing school buildings with play areas, including a Multi use Games Area (MUGA) being located to the north and seating areas, and three further play

areas, to be located between the new extension and the car parking area on the eastern part of the site. The car parking area will accommodate 350 parking spaces located along with the eastern boundary which will lead to the existing access to the south-west corner of the site which is similar to the extant consent which had 32 spaces on the eastern boundary. Whilst the extension will result in the reduction in open space within the site, the new scheme will include four distinct play areas within the site and will have potential access to sports pitches to the west for physical education through booking with Maidstone Borough Council Parks department and there will be continued shared access to Bower Grove School facilities to the north which is confirmed by formal agreement (which is attached as **Appendix 1**). The main hall of 226 square metres will also provide further facilities for all weather play.

- 2.3 The extension will extend to 967 square meters and will contain a main hall and studio, along with classrooms, kitchen at ground floor and classrooms and other facilities at first floor along with internal changes to the existing building to create a logical layout to the new enlarged school.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: Maidstone Local Plan 2000- CF1
Emerging Local Plan; DM1, DM3, DM23, DM27
Supplementary Planning Documents:

5.0 LOCAL REPRESENTATIONS

- 5.1 The site notice was placed at the site on the 4th October 2016.
- 5.2 There have been 19 objections from members of the public, including Save Fant Farm Community Group to the application who raise the following issues:
- Limited land
 - Congestion and parking problems
 - Extension is not required
 - Parking and changing character of the area
 - Site incapable of accommodating such an extension or providing a holistic education
 - Lack of play space which is below standards
 - Highway Safety
 - Noise levels
- 5.3 There have been 8 letters of support which highlight the following issues
- The plans appear well thought out
 - Parents car share and on the most part park responsibly
 - Maidstone needs new schools and restrictions caused issues for new intakes
 - Is an asset to the local community
 - Stopped Gatland Road being used as a rat run and cars do not obstruct traffic
 - Need as many reception places as need

6.0 CONSULTATIONS

- 6.1 **Environmental Health** have no issue with air quality or noise from classrooms (which it considers can be dealt with by condition), they wished to have greater information on the matter of disturbance on adjoining occupiers both from pick up and drop off but also at play time and lunchtimes. Further discussions were held with the Environment Health department and further information was presented and the view was a planning condition relating to staggered break times, which will restrict numbers of children outside at any one time, could address the matter to the point they no longer object to the application. This matter is discussed further below in more detail.
- 6.2 **KCC Highways** No objections to the application but highlights high parking occupancy in beat study area particularly in afternoon but highlights these will have only a minor impact on peak traffic. Subject to parking restrictions and conditions relating to travel plan and construction management plan and KCC state the effects are not severe in terms of the NPPF.
- 6.3 **MBC Landscape** No objections to layout and tree removal but concerns regarding the mulching and installation of seats under a category B tree. As such there should be a condition regarding arboricultural method statement and tree protection plan as well as the standard landscaping conditions
- 6.4 **KCC Archaeology** No comments to make

7.0 BACKGROUND PAPERS AND PLANS

Application forms
Existing and Proposed Block Plans
Existing and Proposed Elevations
Existing and Proposed Floorplans
Proposed Sections
Proposed Landscaping Plans
Transport Statement and further information in respect of parking beats, etc
Planning Statement
Design and Access Statement
Tree Survey
Air Quality Assessment
Noise Report

8.0 APPRAISAL

Background

- 8.1 The school was originally approved as a one form entry (1FE) primary school under application 14/503957 which permitted the use of the site as a Free School subject to a condition restricting pupil numbers to 240 up until 2022 and then 210 pupils thereafter. The application in 2014 was originally submitted on the basis of a capacity of up to 420 pupils but during the application process the applicant agreed to the restrictive condition to reduce numbers as officers felt there was a lack of information regarding the ability of the site to accommodate such numbers. For example, there was no application for an extension to provide for a larger pupil number of 420 (or a 2 Form Entry equivalent) and it was unclear whether there would be sufficient outdoor play space if an extension was built on the site. As no plans were provided for the

design and layout of any extension that would enable the school to cater for 420 pupils (or 2FE equivalent), it was impossible to determine whether such an extension would also be acceptable in terms of impact on the surrounding area.

- 8.2 The application was approved subject to a number of conditions including those relating to Parent/Pupil Safety Plan (Condition 3), improvements to the highway (Condition 5), School Travel Plan (Condition 6), Dropping off policy (Condition 8) and pedestrian access (condition 9) and these will remain in place and will need to be adhered to by the school. These measures were imposed to reduce impacts of the school use and also to improve the safety of pedestrians at busy times. These conditions allow for a 3 pick up/drop off bays for buses, taxis but no facilities for general drop off children and the travel plan and Parent/Pupil Safety plan has been submitted and approved by the council. Most of these details or requirements of the conditions are based upon 420 pupils, but where these are not, such as the Travel Plan, a further condition will be required and this is outlined in more detail below.
- 8.3 As such, the application establishes the principle of an educational facility on the site and this application merely relates to the impact of the extension on the site and the potential associated impacts of this increased floorspace. This application contained further information and assessment of the potential impacts of the development in terms of transport/highway impact, school standards including playspace, noise and other relevant matters.
- 8.4 A pre-application was held in March 2016 with the applicant regarding the increase in the capacity of the school and advice was provided in respect of the pertinent matters such as playspace, impacts on adjoining properties and highways.

Principle of Development

- 8.5 The application relates to an existing Free School which is located within the built up area of Maidstone whereby development is considered acceptable subject to other policies. In the case of the Maidstone Local Plan 2000, the relevant policy is CF1 which relates to new community facilities, including educational facilities. Whilst this is not directly relevant to existing facilities, it does imply new facilities should be provided to meet future need which is generated by new development, a point which will be touched upon further below. This policy is taken forward in policy DM23 of the emerging plan which again recognises the need to provide community facilities to meet the needs of new residential development. As set out below, there is currently a deficit of school places within the Maidstone West Area which does not take account of the future growth within the emerging plan and thus there is a context where further education provision is necessary.
- 8.6 Of relevance to this point is that school is included in the KCC Commissioning Plan 2017-2021 to provide primary school places within the Maidstone West area which together with other central Maidstone areas has been subject to high level of inward migration from London Boroughs. The Commissioning report states that the restriction of places at Jubilee School to 1FE is an aggravating factor which has placed considerable pressure on central Maidstone for reception and Year 1 and 2 places. Whilst the report recognises this current planning application, it does state there will be a need a further 1FE for Maidstone West area should this not be approved.
- 8.7 At a national level, the policy relating to the provision of school development remains a positive one which paragraph 72 of the NPPF stating ; *“the government attaches*

great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted'

8.8 Whilst, the application is an extension to an existing school rather than a new school facility, it is considered the significant support offered by national and local policy also remains relevant. For example, the Communities and Local Government Policy Statement on Planning for Schools Development (Aug 2011) sets out the Government's Commitment to support the development of state-funded schools and their delivery through the planning system. The policy statement advises that *"it is the Government's view that the creation and development of state-funded schools is strongly in the national interest and that planning decision makers can and should support that objective, in a manner consistent with their statutory obligations"*. It encourages collaborative working, which *"would help to ensure that the answer to proposals for the development of state-funded schools should be, wherever possible, "yes" "*. It states that *"the Government believes that the planning system should operate in a positive manner when dealing with proposals for the creation, expansion and alteration of state-funded schools, and the following policies should apply with immediate effect:*

- ***There should be a presumption in favour of the development of state funded schools, as expressed in the National Planning Policy Framework.***
- ***Local authorities should give full and thorough consideration to the importance of enabling the development of state-funded schools in their planning decisions.*** *The Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining applications and appeals that come before him for decision.*
- ***Local authorities should make full use of their planning powers to support state-funded schools applications. ...***
- ***A refusal of any application for a state-funded school, or the imposition of conditions, will have to be clearly justified by the local planning authority.*** *Given the strong policy support for improving state education, the Secretary of State will be minded to consider such a refusal or imposition of conditions to be unreasonable conduct, unless it is supported by clear and cogent evidence."*

8.9 The Plain English Guide to Planning for Free Schools, produced by the Department for Communities and Local Government in January 2015, reinforces and strengthens earlier advice. It sets out in paragraph 2 that *"the Government is committed to ensuring there is sufficient provision to meet growing demand for state-funded school places, increasing choice and opportunity in state funded education, and raising educational standards. Free schools have an important part to play in delivering this challenge."*

8.10 Therefore it is clear the position of the NPPF, wider government policy and the council's existing and emerging policy, presents strong support for school related development where this can deliver quality school places to meet the needs of the local community. However, it is recognised that the impacts of the increase in pupil

numbers needs to be properly assessed in order to ensure there is no harm that would outweigh this strong presumption that weighs heavily in favour of the scheme.

Need

- 8.11 The previous application set out the position that the Maidstone West Primary area will have a growing need for reception year places over the next three years, with a shortfall of 32 spaces in 2017/18 and 22 spaces in 2018/19. Since this decision in 2015, the position of need for primary school places requires further reflection to take account of population changes since that time and also the future growth that is occurring in the area. The application has been reviewed by the KCC Education who consider the additional pupils places will help meet the forecast pressure over the medium term and the school currently forms parts of its commissioning plan up until 2020. The response from KCC highlights deficits in the Maidstone West area of 35 places in 2016 with further deficits of 4 and 10 places from 2017-8 to 2019-20. Furthermore, the adjoining area of Maidstone North also presents a deficit of 92 places over the period to 2020. Whilst, KCC have commissioned 30 reception places at East Borough Primary School to try and address this demand, KCC have stated this is not a permanent solution.
- 8.12 KCC confirm that this overview of need does not take into account the need that would arise from the planned increase of new homes within the emerging plan and that this will quite logically drive up demand with the planning groups and potentially exacerbate the existing deficits. The extension to the school will contribute to meeting this need and avoid pupils having to attend schools further afield from their homes.
- 8.13 It is also pertinent that policy DM23 of the emerging Local Plan recognises the need for education as part of future growth but at the same time the current school provision within the commissioning plan does not take account of the future growth as set out in the emerging plan. Thus the fact planning policy places significant weight on the need to deliver further school places and that there is a significant need within the area, these factors weigh heavily in favour of the development.
- 8.14 However, the NPPF recognises that development should be sustainable and thus the impacts of this extension (and obviously the increase in pupil numbers it will facilitate) in culmination with the existing school will now be considered in more detail below;

Design and Layout

- 8.15 The new extension will extend from the rear (northern) part of the building and will be of two storey with a flat roof which will step down from the main building which is around 9.4 metres in height to the extension will be 8.4 metres in height. The extension will be connected to the building through a glazed link. The extension will be rendered and painted white with brick slips at lower ground level. The extension will incorporate turquoise aluminium windows and a yellow curtain wall panel to the link element of the extension. It is considered the extension will create a modern, well designed addition, which will be appropriate to the existing building.
- 8.16 The extension will extend to 967 square meters and internally will contain a main hall and studio, along with classrooms, kitchen at ground floor and classrooms and other facilities including a library at first floor along with internal changes to the existing building to create a logical layout to the school with its extended facilities. The upper floor will also contain two roof terraces. As a result of the extension, the school will

have two classrooms for each year group, 1-6, and 2 reception classrooms along with staff facilities, library and ICT rooms. The school would also exceed the standards set out in BB103 which relate to floorspace standards for new schools although this does stress the need for flexibility depending upon the circumstances of each case. For a new build 2FE School, the minimum standards are 2048sqm and the floorspace of the completed school building would be 2254sqm which exceeds the standards by 182sqm.

- 8.17 Externally, the layout of the school will remain similar to the existing site albeit with the new extension running along the western boundary. The car parking area will remain in a similar position to that approved albeit it will include 2 additional spaces and cycle parking. As a result of the extension, the play areas will be formalised with the Multi Use Games Area being located to the northern boundary and three further different play spaces each with a different theme, being located within the central part of the site between the MUGA and the rear part of the building further south. The site will be subject to additional landscaping throughout the site including new tree planting to the boundaries and soft and hard landscaping which would be secured by a suitable planning condition. In terms of external space, the site exceeds the BB103 standards in respect of Hard Informal and social space and although falls below the standards as set out in BB103 on the other types of open space, the school are seeking to address through other measures, which are discussed in more detail below.
- 8.18 Subject to suitable conditions relating to materials, landscaping, it is considered from a design and layout perspective, the development would constitute good design and would accord with policy DM1 and Section 7 of the NPPF.

Play space Standards

- 8.19 When the previous application 14/503957 was considered, one of the main concerns regarding the higher pupils numbers was the extent of outside/playing space associated with the school. There are several relevant documents that provide guidance on this issue. The most recent document entitled Advice on Standards for School Premises, produced by the Department of Education in March 2015, sets out that outdoor space is needed for PE, which includes the provision of games and also for pupils to play outside. Building Bulletin 103 sets out the standards of such space and this will be discussed further below. There are two types of outdoor space used for PE, sports pitches (such as grass and/or all weather) used for team games such as football, hockey and cricket and hard surfaced games courts (such as MUGA's) used for netball, tennis etc. Outdoor space is also needed for informal play and socialising, which is usually both hard and soft surfaced.
- 8.20 Page 14 deals with the issue of outdoor space in terms of on-site and off-site provision. It advises that *"Schools often need to maximise the use of their sites in order to provide the variety of spaces needed. Advice on the sizes of spaces can be found in the 'Area Guidelines for Mainstream Schools' in Building Bulletin 103".* It also states that *"some schools will be on restricted sites and will not have enough outdoor space to meet requirements. In these situations, pupils will need to be provided with access to suitable off-site provision".*
- 8.21 Department of Education published its 'Area Guidelines for Mainstream Schools, Building Bulletin 103' in June 2014. It states on page 36 that *"some schools will be on restricted sites and will not have enough outdoor space to meet requirements on site. In these situations pupils will need to be provided with access to suitable*

off-site provision. On restricted sites, where space will be at a premium, a flexible approach to the site area and the management of the use of that area will be needed, and consideration should be given to providing the following, in priority order:

- *Firstly, space for hard informal and social area including outdoor play area immediately accessible from nursery and reception classrooms;*
- *Then hard outdoor PE space, to allow some PE or team games to be played without going off site, ideally in the form of a multi-use games area that can also be used as hard informal and social area;*
- *Then soft informal and social area for wider range of outdoor educational opportunities and social space;*
- *Finally some soft outdoor PE can be provided. If this is in the form of an all weather pitch, it can count twice towards the recommended minimum.”*

- 8.22 The applicant has compared the extent of playspace that is being provided on site to the BB103 standards in the priority order outlined above. This is in recognition that BB103 accepts off-site provision is sometimes necessary but if space can be provided on site, it should be provided in the order as set out above.

The outdoor space is proposed to be set out as below;

(1) Hard informal and social area- on site provision of 856sqm against the BB103 requirement of 620sqm

(2)Hard Outdoor PE- on site provision of 197sqm against a requirement of BB103 of 1030sqm

(3)Soft informal and Social Area- on site provision of 423sqm against a requirement of 1440sqm

- 8.23 It can be seen above, that the playspace which is prioritised by BB103 (type 1) above) is provided above standard on site but the applicant recognises there is a shortfall in open space for the other categories. The layout seeks to provide a variety of play areas to provide variety and stimulation for pupils in the space available as well as the MUGA to the north of the site. In order to address the shortfall in the other types of playspace, the school would share facilities with Bower Grove School, which has both soft and hard play facilities. This is secured by a formal agreement between the schools, a copy of which is attached as **Appendix 1**, with the arrangement allowing Bower Grove to also utilise the facilities at Jubilee including the proposed new hall in the extension.
- 8.24 Further provision of soft outdoor PE will also be provided through the rental of the adjacent sports pitches (to the west) through the Maidstone Parks and Leisure department who confirm that there is availability during school hours (fields are only booked at weekends) and subject to costs and maintenance implications, the applicant would likely be able to block book field/s for use for sports and recreation like with any other user. This together with the Bower Grove facilities would provide access to facilities in accordance and potentially in excess with the BB103 standards. The new school extension will include the provision of an indoor hall and studio which will also provide additional play space within the site.
- 8.25 Bearing in mind BB103 relates to new school facilities, it does suggest some flexibility in relation to these standards by stating; *Some schools will be on restricted sites and will not have enough outdoor space to meet requirements on site. In these situations pupils will need to be provided with access to suitable off-site provision. On restricted sites, where space will be at a premium, a flexible*

approach to the site area and the management of the use of that area will be needed, and consideration should be given to providing the following, in priority order: The school has met the type of space prioritised by BB103 and it is considered the proximity and likely availability of this off-site land and facilities within school hours makes this a feasible option to provide additional play space so pupils have proper access to such facilities as part of their schooling. The fact the BB103 guidance recognises that a flexible approach is sometimes needed, it is considered this approach would be acceptable in this case. This on the basis of the standards required for a 2 form entry primary school and a maximum of 420 pupils.

- 8.26. It is recognised that this outdoor space is largely dependent on off-site provision but perhaps most importantly the school delivers in excess of the requirement on site in relation to the type of space prioritised by BB103; Hard informal and social areas, which is the type most readily required by students and when formal PE space is required, this space can be provided on land that abuts the school site. This type of arrangement is common in many schools across the UK whereby the provision of PE playing space is reliant on off-site provision/utilising shared facilities across schools, but the fact the facilities are almost directly accessible from the site is considered to make this on site shortfall against the standards acceptable in officer's view.
- 8.27 Whilst, it is recognised the previous committee report raised concerns regarding the ability of the site to meet the standards for a 2FE Primary school for 420 pupils, further information is now available with regards to the hiring of the adjacent sports pitches and this together with the agreement with Bower Place and the facilities provided within the new scheme, it is now considered to meet the play space requirements for a 420 pupil 2FE.

Visual Impact

- 8.28 The application site is contained within the urban area of Maidstone with playing fields to the west and residential development to the east, in the form of Sherbourne Road and Burghclare Drive. The extension has been designed to connect to the rear of the building and run northwards at a similar height and employing an architectural style which is compatible with the existing property. Whilst the extension will be visible from the adjacent sports pitches, it is considered with a good landscaping scheme, the visual impact will be acceptable particularly as the extension will be read in conjunction with the existing built form and the built up area beyond. The impact of the new building from the East will be reduced due to the separation distances from the rear garden of the properties on Sherbourne Gardens which back onto the site. From Gatland Lane, the visual impact of the extension is limited by reason of its location to the rear of the building. From the access it will be likely that the car parking area will be visible although this area is currently laid out as the existing car park so little impact over and above the existing site will be caused.
- 8.29 The application proposes additional planting of Wild Cherry trees along the eastern boundary, which will supplement and replace the existing boundary screening and this, will help soften views of the building once these have matured. Further planting will take place to the frontage of the site as well as further tree planting and hedgerows around the car park. This planting will create an additional benefit over that of the existing school appearance, particularly from Gatland Lane and will help soften the appearance of the building in short and medium term views.
- 8.30 It is considered the development will not cause significant impact on the local townscape and will be acceptable within its built context and will accord with Policy

DM1 which required development to be of high quality design and respond positively to the local character of the area.

Residential Amenity

- 8.31 The previous application, 14/503997, explored the issues of noise impact on adjoining properties with the submitted noise assessment at that time being based upon the potential for 420 pupils at the site. This report has been resubmitted with the current application. Whilst members ultimately decided to restrict the numbers of pupils to 240 falling to 220, these studies are useful in establishing the impact and the response of the council's specialist departments if this extension was constructed and condition 2 was removed as proposed by 16/506322. The main impacts are and were in the previous application, that of the drop and pick up of children and the impact of children in the playground at break times.
- 8.32 In relation to noise impacts from pick up and drop off, the previous noise assessment concludes that the predicted use of the external playground areas and student drop off/collection will not result in any unacceptable noise impact to residents at Gatland Lane and Sherbourne Drive. The environmental officer has stated that the development is unlikely to cause significant harm to local residential amenity by way of drop off and collections and this was a position accepted in the previous application.
- 8.33 In this application, the Environment Health raised the potential disturbance on adjoining occupiers by reason of noise from children in the playground although it is noted this was not raised as an objection in the original 2014 application. The noise report assesses this issue and considers the impact would not have a significant impact on residents bearing in mind the background levels and existing use. Following further discussions with the applicant and the planning officer, the Environmental Health officer has confirmed that subject to management measures, specifically the use of staggered break times for students, that he has now no objections to the scheme. The use of staggered break times can be secured by condition with is set out in condition 11 below which would require a management plan to be submitted to the council.

Safety and Highways

- 8.34 The matters of road safety and safety to road users and pedestrians was a concern in the previous application, 14/503957 and has been again raised by residents and local groups. The application is supported by a Transport Statement and KCC Highways, Maidstone Borough Council and the applicants have been involved in further discussions regarding access, car parking and the general impacts on road safety. As part of these discussion further information has been provided with regards to parking beats, progress on works that were agreed under the parent permission and walking routes to the site. Before assessing the impact of the additional growth of the school it is necessary to consider the fact the conditions placed upon the original consent, 14/503957, will remain in place and the detail approved for these conditions, including those relating to Parent/Pupil Safety Plan (Condition 3), improvements to the highway (Condition 5), Dropping off policy (Condition 8) and pedestrian access (condition 9) were all based on 420 pupils. However, it is recognised there some approved details relating to conditions which were based on the lower pupil numbers such as the travel plan and thus it is recommended new conditions are applied to this application to deal with the issues

based on the higher pupil numbers. This includes a new travel plan condition to be applied to 16/506320 if approved. These conditions, both existing and proposed, will still need to be adhered to by the school in the event pupil numbers increase. These measures will obviously have some impact in reducing impacts and improving the safety of pedestrians at busy times.

Access and Parking

- 8.35 The development will utilise the existing access and will provide 37 parking spaces (including disabled provision) along with cycle parking to the south of the parking area. This is considered to be adequate to deal with the maximum number of full time 35 staff members (at full capacity) and bearing in mind the no drop off policy for general pupils, this parking provision is considered to be adequate. The access has also previously been considered to be safe and present no significant highway issues. On this basis and the limited increase of on-site activity, it is considered the access and parking arrangements are acceptable in relation to the increase in pupil numbers. Following receipt of further information KCC Highways have reviewed the scheme do not have any objections with regards to on-site parking or access to the site.

Impact of Traffic on Congestion/Road Network Capacity

- 8.36 There have been a number of concerns raised regarding the capacity of the local road network to cope with the increased traffic that could occur as a result of the intended growth of the school. Whilst recognising that the activity associated with the site would be largely restricted to AM and PM periods associated with school opening hours, it is necessary to fully consider the impact of the increased traffic. The Transport Statement states that the school as proposed by this application will generate an additional 69 vehicle trips or 138 two way vehicle movements in the morning and afternoon in comparison to the consented capacity. The report highlights the impact on junctions between Gatland Lane and Fant Lane and Gatland Lane, Farleigh Lane and Glebe Lane as being potentially affected by the new development. However, it concludes that the level of trips associated with the extension would not have a detrimental impact on the operation of the junction when compared to the consented level of growth.
- 8.37 The matter of the local highway network and its capacity for further growth was investigated in some detail in the Fant Farm appeal (ref: APP/U2235/W/16/31482) which relates to the development of up to 225 dwellings which lies within the locality of the school. The transport impacts of the development were considered in combination with the intended growth of the school and therefore the views of the Inspector on the impact on the wider highway network are very relevant to this application.
- 8.38 Firstly, the Inspector looked at the cumulative impacts of the residential development and its consented level and the category of road that Gatland Lane would best represent. He had the following comments;

'The appellant's Transport Assessment (TA) compared recorded traffic flows in Gatland Lane against urban road capacities set out in TA 79/99 of Design Manual for Roads and Bridges comparing it initially against UAP3, variable standard road carrying mixed traffic with frontage access, side roads, bus stops and at-grade pedestrian crossings, which has an indicative one-way hourly flow of 900. Gatland

Lane broadly matches the characteristics of UAP3 and this is not in my view an inappropriate comparator.'

'Taken together with the traffic projections for the appeal scheme, the Transport Statement results indicate that with the school operating at permitted capacity the total morning peak flows in 2018 on Gatland Lane west of the site access would be some 683 and east of the site access 642. This would still be significantly below the 900 theoretical capacity of a UAP3 road, and indeed below the 750 busiest directional flow capacity of a UAP4 road described as a busy high street carrying predominantly local traffic with frontage activity including loading and unloading.'

The resulting effect on the Gatland Lane/Farleigh Lane/Glebe Lane junction, which has been shown to operate currently with spare capacity, and on the Gatland Lane/Fant Lane junction would be modest with the junctions continuing to operate satisfactorily.

- 8.39 The Inspector then went onto consider the impacts should the school increase to 420 pupils (as this application was live at the time of the appeal);

'If expansion of the school to a 430 pupil intake was granted, there is shown to be a potential for traffic flows in Gatland Lane, including trips arising from the proposed development, of 756/815 in 2018 and 797/856 in 2025. Whilst this would exceed the UAP4 theoretical capacity of Gatland Lane, it would remain below the UAP3 capacity. Further, there is no certainty that permission will be granted and the assumptions in respect of school catchment would not necessarily hold true over this time period. It is reasonable for example to assume that some children from the proposed development would attend the enlarged school. If that was the case, they could reasonably be expected to walk to school resulting in fewer than anticipated vehicle movements.'

- 8.40 Therefore, in summary the Inspector has concluded that there is sufficient road capacity for both the residential development and that of Jubilee School even at its intended capacity of 420 pupils. As the Fant Farm scheme was dismissed on other grounds and thus this will not be coming forward, the Inspector conclusions robustly infer that the impact of the growth of Jubilee School will be acceptable in terms of the local road network and capacity. KCC Highways, in reviewing the scheme, also note the growth of the school would remain in capacity of the local highway network. This point is a significant material consideration which weighs in favour of the removal of condition 2.

Impact on highway as a result of parking associated with the school

- 8.41 The applicant also submitted parking beat data as part of the development which sought to establish the unrestricted parking capacity of the nearby roads and the current demand from the school at peak times, namely at school start and finish times. This included roads at Gatland Lane, Ridgeway, Cowdrey Close, Chamberlain Avenue, Burghclere Close, Sherbourne Drive and Portsdown Close, roads that are within walking distance or have sustainable links through to the school site. The scope of this survey was agreed with KCC Highways and essentially then calculates the capacity of the road network to accommodate parking from the proposed additional growth of the school. This information was provided to allow better understanding of the parking stresses that occurs at the peak times associated with the school use.

- 8.42 This parking beat data has been reviewed by KCC Highways and the officers recognise parking stress at peak times including in the afternoon where 100% parking occupancy is expected to occur at Ridgeway, Cowdrey Close, Chamberlain Avenue (part) and Burghclere Drive with 97% occupancies predicted at Gatland Lane and Sherbourne Drive within the study area. However, KCC does not consider effects to be severe in NPPF terms and considers these effects to present only minor conflict with peak time traffic and importantly that Gatland Lane remains within capacity. It is also pertinent to consider the extent of these effects particularly as full parking occupancy will only occur when the school is at maximum capacity and the effects will only last for a limited period around picking up time in the afternoon with the rest of the day being unaffected. KCC also consider mitigation can be provided in the form of a break in traffic on Gatland Lane for larger vehicles achieved by parking restrictions and the inclusion of a link to the recreation ground which was secured via condition of the parent planning permission.
- 8.43 Thus in summary, there is no significant adverse effects caused by the development on highway grounds on account of site specific highway matters or effects on the wider highway network. KCC highways raise no objection to the scheme subject to a conditions requiring a construction management plan and travel plan

Landscaping/Trees

- 8.44 The application is supported by landscaping plans which set out the proposed soft and hard landscaping which will apply to the external areas of the site. As set out above, the extension will create a play area zone which will run from the rear of the existing building and wrap around the parking area which will extend along the eastern boundary. The play area will include various surfaces, including two play areas consisting of artificial lawn, permeable bound gravel and a tarmaced sport court (MUGA). This will be contained within a natural setting including an area contained an area consisting of bark chippings with seating and retention of existing trees along with new planting along the boundaries and within the site where appropriate.
- 8.45 The council's landscape department have reviewed this application and has no objections subject to a condition requiring a arboriculture method statement and tree protection in order those trees to be retained are protected during the construction and lifetime of the development. This can be secured by a suitable planning condition along with conditions relating to hard and soft landscaping where further detail and specification can be sought.

Other Matters

- 8.46 The development is not considered to present significant ecology value having regard to the fact the site is currently mown and well kept grass and there is little potential for protected species although a condition is suggested to provide ecological enhancements to the site as part of the extension application in order that this would accord with paragraph 118 of the NPPF and policy DM3 of the Maidstone Emerging Plan.
- 8.47 The application is also supported by an air quality assessment which concludes that the impact on air quality during construction is not significant and over the lifetime of the development the impacts on the wider area are negligible. This assessment has been reviewed the environmental health officer who states the site is sufficient far

away from any air quality hotspot and no significant impact will be caused by this development.

9.0 CONCLUSION

- 9.1 The principle of a school is established on site and is a school which currently contributes to the needs of the Maidstone West area and which is included in the KCC Commission Plan up to 2020. The relevant planning and government guidance set out strong support for new school facilities and there is an identified current and future need in the area for new school places.
- 9.2 This application sits alongside a separate application, 16/506322, which seeks to remove condition 2 of 14/503957 to allow greater pupil numbers to attend the school. These applications are mutually dependent on one another. For example if the condition 2 is not removed, there is no need for the extension and vice versa, if condition 2 is lifted then the extension is needed to deliver the additional accommodation for the extra pupils.
- 9.3 It is considered the new school will meet the relevant standards for new schools in terms of internal floorspace and will also prioritise on-site playspace in accordance with the standards. Any shortfall of on-site playspace will be mitigated by access to open space, through agreement with the neighbouring school and through hiring of adjacent sports pitches, an option which is feasible and available to the school. Thus in short, it is considered the school will create an education facility of a good standard which will go some way to meeting the needs of the area.
- 9.4 In terms of the associated effects of the larger school, these have been assessed by relevant specialist departments, Inspectors and the case officer and it is considered the extension to the school will not have any significant impact on the area or surrounding properties.
- 9.5 The development is considered to accord with development plan and therefore it is recommended planning permission is granted subject to the planning conditions below.

10.0 RECOMMENDATION – GRANT Subject to the following conditions

CONDITIONS to include

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 approved shall not commence above slab level until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted

to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development

3. The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building(s) or land and maintained thereafter;
Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

4. No development of hard surfaces shall take place until an Arboricultural Method Statement detailing hard surfaces within the root protection areas of trees in accordance with the principles set out in the current edition of BS 5837 and other current best practice guidance has been submitted to and approved in writing by the local planning authority.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

5. No development including site clearance and demolition shall take place until an Arboricultural Method Statement (AMS) in accordance with the current edition of BS 5837 has been submitted to and approved in writing by the local planning authority. The AMS should detail implementation of any aspect of the development that has the potential to result in the loss of, or damage to trees, including their roots and, for example, take account of site access, demolition and construction activities, foundations, service runs and level changes. It should also detail any tree works necessary to implement the approved scheme and include a tree protection plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

6. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

7. The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed and include a planting specification, a programme of implementation and a [5] year management plan.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

8. The use or occupation of each phase of the development hereby permitted shall not commence until all planting, seeding and turfing specified in the approved landscape details has been completed. All such landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

9. The development hereby approved shall not commence until a method statement for the construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The demolition and construction works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel-cleaning facilities during the demolition, excavation, site preparation and construction stages of the development. The method statement shall also include details of the means of recycling materials, the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason: To ensure the construction of development does not result in highway safety.

10. The development hereby approved shall not commence until the parking spaces have been laid out in accordance with the Proposed Site Plan date stamped 25th August 2016 and shall be retained thereafter

Reason: To ensure adequate on school parking and to prevent harm to the highway

11. Within 3 months from the date of this decision a School Travel Plan, including a Safer Travel Document to deal with up to 420 pupils, shall be submitted for approval to the Local Planning Authority. The Document shall set out information for parents and pupils of all parking and highway restrictions in the area, details of all existing and proposed pedestrian and vehicle access points into the School, details of the School Crossing Patrol, Walking Buses and any other measures to encourage sustainable transport choices and also the need to be considerate to all local residents when either driving and parking or walking to School. It will also clearly set out the restriction on pupil numbers that the School must adhere to and that the drop-off and pick up point at the front of the School must only be used by School buses, taxis and emergency vehicles and not by parents. The School will supply the parents of all pupils with a copy of the Travel Plan within 3 months of it being approved and shall permanently make a copy publicly available on-line on the school website for viewing by local residents and any other interested parties. It shall also be registered and uploaded to KCC's online portal and reviewed on a yearly basis.

Reason: In the interests of highway safety, safety and amenity of the pupils, the amenity of the local residents and surrounding area.

12. The development hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To protect and enhance the ecology and biodiversity on the site in the future.

13. The use of the new extension shall not commence until details of any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission have been 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 include an acoustic assessment which demonstrates that the noise generated at the boundary of any noise sensitive property shall not exceed Noise Rating Curve NR35 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's operating. After installation of the approved plant, no new plant or ducting system shall be used without the prior written consent of the Local Planning Authority

14. The development hereby approved shall not commence until, a scheme to demonstrate that the internal noise levels within the school building do not adversely affect external noise levels in back gardens and other relevant amenity areas. This will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - Code of Practice, have been submitted to and approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the premises and be retained thereafter.

Reason: In the interests of aural amenity

15. Prior to the first occupation of the extension hereby approved, a management plan relating to the timing of external play times and breaks for pupils should be submitted to the council and approved in writing by the Local Planning Authority. Such a plan should include the timetable and management of the use of external areas, including consideration of staggered break times for the different classes and details of school management and monitoring of measures. Once approved, the use of the site should be undertaken in accordance with these approved details.

Reason: In order to protect amenities of nearby properties

INFORMATIVES

With the exception of condition 2 (should the committee decide to approve 16/506322), the conditions of 14/503957 continue to apply in full force and those details subsequently discharged as part of related applications.

Case Officer: Diane Chaplin

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

17th December 2014

Jubilee Primary School's occasional use of Bower Grove School's playing field

This letter is to confirm the outcome of our recent discussions surrounding Jubilee Primary School's proposed occasional use of Bower Grove School's playing field.

We thank you for confirmation that your school permits us occasional use of its playing field. Our use of your facility will be by prior arrangement and in a planned manner and we acknowledge that Bower Grove School will have priority use of the field. Likewise, we are happy to offer you use of classroom space for your intervention purposes and the like in the same manner. We consider this a mutually beneficial arrangement and should not be construed as constituting a binding agreement between us. This arrangement is open to review by either school for reasons, inter alia, of continued feasibility or relevance as circumstances dictate. We will, of course, act responsibly with respect to your playing field.

As ever I would like to thank you for your support and help and your longstanding major contribution to the Maidstone community.

Signed



Neil Pattison
Member Jubilee Primary School



Trevor Phipps
Head Teacher, Bower Grove School

REPORT SUMMARY

REFERENCE NO - 16/506322			
APPLICATION PROPOSAL			
Removal of condition 2 of 14/503957 (Application for permanent change of use to a free school (Class D1)) - The condition restricts the number of pupils to 240 until July 2022 and then 210 from September 2022 onwards. The condition is therefore required to be removed, to accommodate an increase in capacity. In the event the extension of floorspace application is approved at the subject site.			
ADDRESS Jubilee Free School Gatland House Gatland Lane Maidstone Kent ME16 8PF			
RECOMMENDATION Approve - Remove condition 2 and impose new condition limiting pupil numbers to 420 pupils			
SUMMARY OF REASONS FOR RECOMMENDATION			
The removal of condition 2 is considered to comply with the relevant policies of the development plan and the approach of the National Planning Policy Framework (NPPF) and other relevant publications which represent material considerations in support of the application. The proposed removal of the condition relating to pupil numbers is intrinsically linked with application 16/506320 which will deliver the additional floorspace required for the additional pupils that would be permitted by removal of condition 2. It is considered the related increase in pupils and the impact of the additional floorspace is considered to be acceptable having regard to the relevant matters including relevant standards, access to playspace and open space, impact on amenity of neighbouring properties and highway matters.			
REASON FOR REFERRAL TO COMMITTEE			
Application has been called by local councillors in order the proposals can be debated at committee for reasons of public interest			
WARD Fant	PARISH/TOWN COUNCIL	APPLICANT Education Funding Agency AGENT JLL	
DECISION DUE DATE 31/10/16	PUBLICITY EXPIRY DATE 02/12/16	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
13/1709	Demolition of existing buildings and erection of 14 dwellings	Approved	14.4.2014
14/503957	Application for permanent change of use to a free school (Class D1)	Approved	12.11.2015
16/501502	Discharge of condition of 14/503957 relating to cycle, drop off/pick up and pedestrian access	Approved	17.6.2016
16/501507	Discharge of condition of 14/503957 Parent/Pupil drop off and School Travel Plan	Approved	16.6.2016

16/501509	Discharge of condition of 14/503957 relating to boundary treatment	Approved	28.6.2016
16/501512	Discharge of condition of 14/503957 landscaping scheme	pending	
16/506320	Erection of an extension to the existing school building for educational use	Pending	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.1 The site is Jubilee Free School which was opened in September 2014 and currently has around 150 pupils. The school was granted planning permission under 14/503957 which granted permission for up to 240 pupils up to the year 2022 and 210 thereafter. The school forms part of the KCC Education commissioning plan 2016-20.
- 1.2 The building fronts onto Gatland Lane and is a two storey building with a rear two storey projection. To the rear are hard surfaced and a grassed areas with a parking area to the eastern part of the site. There are two vehicle access points into the site from Gatland Lane (either side of the buildings frontage) and there is a grass verge and low level wall for boundary treatment to the front of the site. Boundary treatment to the north (rear) and west largely consists of well established conifer trees; and to the east it is of close boarded fencing and some level of planting. To the east and south there are residential properties, with the rear gardens of properties in Sherbourne Drive backing onto the site: to the north a substation and then a playing field beyond; and to the west an access road and then a sports field.
- 1.3 The site covers an area of some 0.48 hectares and is within the defined urban area as identified by the Maidstone Borough-Wide Local Plan 2000 (MBWLP)

2.0 PROPOSAL

- 2.1 This report relates to the removal of condition 2 of 14/503957 (Application for permanent change of use to a free school (Class D1)) - The condition restricts the number of pupils to 240 until July 2022 and then 210 pupils from September 2022 onwards. The condition is proposed for removal to allow up to 420 pupils and create a two form entry school (2FE)
- 2.2 This application sits alongside application 16/506320, which relates to the extension to the existing building which will provide the additional floorspace to accommodate this increase in pupils. Essentially, these applications, although separate, are mutually dependent upon one another as the extension is necessary to accommodate the additional pupils that would be permitted by the removal of condition 2 of 14/503957 and likewise, if the condition is not removed then there is no necessity for the extension.
- 2.3 The matter of the pupils numbers was subject of the earlier application 14/503957, but pupil numbers were restricted to those set out in condition 2 as it was considered there was insufficient certainty that the school could achieve the standards for a 2FE

and it was also unclear how these additional pupils could be accommodated on site as at that time it was only the existing building that was subject of the application.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Development Plan: Maidstone Local Plan 2000.
Emerging Local Plan; DM1, DM3, DM23, DM27,
Supplementary Planning Documents:

5.0 LOCAL REPRESENTATIONS

5.1 The site notice was placed at the site on the 4th October 2016.

5.2 There have been 19 objections from members of the public, including Save Fant Farm Community Group to the application who raise the following issues:

- Limited land
- Congestion and parking problems
- Extension is not required
- Parking and changing character of the area
- Site incapable of accommodating such an extension or providing a holistic education
- Lack of play space which is below standards
- Highway Safety
- Noise levels
-

5.3 There have been 8 letters of support which highlight the following issues

- The plans appear well thought out
- Parents car share and on the most part park responsibly
- Maidstone needs new schools and restrictions caused issues for new intakes
- Is an asset to the local community
- Stopped Gatland Road being used as a rat run and cars do not obstruct traffic
- Need as many reception places as need

6.0 CONSULTATIONS

6.1 **Environmental Health** have no issue with air quality or noise from classrooms (which it considers can be dealt with by condition), they wished to have greater information on the matter of disturbance on adjoining occupiers both from pick up and drop off but also at play time and lunchtimes. Further discussions were held with the Environment Health department and further information was presented and the view was a planning condition relating to staggered break times, which will restrict

numbers of children outside at any one time, could address the matter to the point they no longer object to the application. This matter is discussed further below in more detail.

- 6.2 **KCC Highways** No objections to the application but highlights high parking occupancy in beat study area but highlights these will have only a minor impact on peak times. Subject to parking restrictions and conditions relating to travel plan and construction management plan and KCC state the effects are not severe in terms of the NPPF.
- 6.3 **MBC Landscape** No objections to layout and tree removal but concerns regarding the mulching and installation of seats under a category B tree. As such there should be a condition regarding arboricultural method statement and tree protection plan as well as the standard landscaping conditions
- 6.4 **KCC Archaeology** No comments to make

7.0 BACKGROUND PAPERS AND PLANS

Application forms
Covering letter
Site location plan

Relevant background papers of 16/506320

Existing and proposed block plans
Existing and Proposed Elevations
Existing and Proposed Floorplans
Proposed Sections
Proposed Landscaping Plans
Transport Statement and further information in respect of parking beats, etc
Planning Statement
Design and Access Statement
Tree Survey
Air Quality Assessment
Noise Report

8.0 APPRAISAL

Background

- 8.1 The school was originally approved as a one form entry (1FE) primary school under application 14/503957 which permitted the use of the site as a Free School subject to a condition restricting pupil numbers to 240 up until 2022 and then 210 pupils thereafter. The application in 2014 was originally submitted on the basis of a capacity of up to 420 pupils but during the application process the applicant agreed to the restrictive condition to reduce numbers as officers felt there was a lack of information regarding the ability of the site to accommodate such numbers. For example, there was no application for an extension to provide for a larger pupil number of 420 (or a 2 Form Entry equivalent) and it was unclear whether there would be sufficient outdoor playspace if an extension was built on the site. As no plans were provided for the design and layout of any extension that would enable the school to cater for 420 pupils (or 2FE equivalent), it was impossible to determine whether such an extension would also be acceptable in terms of impact on the surrounding area.

- 8.2 The application was approved subject to a number of conditions including those relating to Parent/Pupil Safety Plan (Condition 3), improvements to the highway (Condition 5), School Travel Plan (Condition 6), Dropping off policy (Condition 8) and pedestrian access (condition 9) and these will remain in place and will need to be adhered to by the school.. These measures were imposed to reduce impacts of the school use and also to improve the safety of pedestrians at busy times. These conditions allow for a 3 pick up/drop off bays for buses, taxis but no facilities for general drop off children and the travel plan and Parent/Pupil Safety plan has been submitted and approved by the council. Most of these details or requirements of the conditions were based upon 420 pupils, but where those which are not, such as the Travel Plan, a further condition will be required and this is outlined in more detail below.
- 8.3 As such, the application establishes the principle of an educational facility on the site and members now have an application to extend the building to a standard which accords with the floorspace standards for an 2FE under 16/506320, also before the committee, and the current application to remove the condition relating to pupil numbers to allow a 2FE to be formed.
- 8.4 A pre-application was held in March 2016 with the applicant regarding the increase in the capacity of the school and advice was provided in respect of the pertinent matters such as playspace, impacts on adjoining properties and highways.

Principle of Development

- 8.5 The application relates to an existing Free School which is located within the built up area of Maidstone whereby development is considered acceptable subject to other policies. In the case of the Maidstone Local Plan 2000, the relevant policy is CF1 which relates to new community facilities, including educational facilities. Whilst this is not directly relevant to existing facilities, it does imply new facilities should be provided to meet this future need which is generated by new development, a point which will be touched upon further below. This policy is taken forward in policy DM23 of the emerging plan which again recognises the need to provide community facilities to meet the needs of new residential development. As set out below, there is currently a deficit of school places within the Maidstone West Area which does not take account of the future growth within the emerging plan and thus there is a context where further education provision is necessary.
- 8.5 Of relevance to this point is that school is included in the KCC Commissioning Plan 2017-2021 to provide primary school places within the Maidstone West area which together with other central Maidstone areas has been subject to high level of inward migration from London Boroughs. The Commissioning report states that the restriction of places at Jubilee School to 1FE is an aggravating factor which has placed considerable pressure in central Maidstone for reception and Year 1 and 2 places. Whilst the report recognises this current planning application, it does state there will be a need a further 1FE for Maidstone West area.
- 8.6 At a national level, the policy relating to the provision of school development remains a positive one which paragraph 72 of the NPPF stating ; *“the government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools; and work with schools*

promoters to identify and resolve key planning issues before applications are submitted'

8.7 Whilst, the application seeks to increase pupil numbers in an existing school (in combination with 16/506320) rather than a new school facility, it is considered the significant support offered by national and local policy also remains relevant. For example, the Communities and Local Government Policy Statement on Planning for Schools Development (Aug 2011) sets out the Government's Commitment to support the development of state-funded schools and their delivery through the planning system. The policy statement advises that *"it is the Government's view that the creation and development of state-funded schools is strongly in the national interest and that planning decision makers can and should support that objective, in a manner consistent with their statutory obligations"*. It encourages collaborative working, which *"would help to ensure that the answer to proposals for the development of state-funded schools should be, wherever possible, "yes" "*. It states that *"the Government believes that the planning system should operate in a positive manner when dealing with proposals for the creation, expansion and alteration of state-funded schools, and the following policies should apply with immediate effect:*

- ***There should be a presumption in favour of the development of state funded schools, as expressed in the National Planning Policy Framework.***
- ***Local authorities should give full and thorough consideration to the importance of enabling the development of state-funded schools in their planning decisions.*** *The Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining applications and appeals that come before him for decision.*
- ***Local authorities should make full use of their planning powers to support state-funded schools applications. ...***
- ***A refusal of any application for a state-funded school, or the imposition of conditions, will have to be clearly justified by the local planning authority.*** *Given the strong policy support for improving state education, the Secretary of State will be minded to consider such a refusal or imposition of conditions to be unreasonable conduct, unless it is supported by clear and cogent evidence."*

8.7 The Plain English Guide to Planning for Free Schools, produced by the Department for Communities and Local Government in January 2015, reinforces and strengthens earlier advice. It sets out in paragraph 2 that *"the Government is committed to ensuring there is sufficient provision to meet growing demand for state-funded school places, increasing choice and opportunity in state funded education, and raising educational standards. Free schools have an important part to play in delivering this challenge."*

8.8 It is clear from the above that there is a clear policy support in favour of further education provision including that of the increase in school places that the removal of the condition would permit. That being said, the principle of the development has already been justified on the site under application 14/503957 and thus this application is largely parasitic on the application 16/506320. For example, if members decide to approve that application, then that decision would justify the approval of this application. This is on the basis the retention of condition 2, in those circumstances, would fail the tests of the NPPF in that it would be longer necessary or reasonable to restrict lower pupil numbers as it would be clear the higher numbers of pupils could be accommodated within the site. However, on the same basis, if the

other application, 16/506320, was refused, the condition would remain compliant with the tests on the basis the ability of the site to accommodate additional pupils remains uncertain and thus the condition in those circumstances would be remain acceptable in relation to the NPPF tests.

- 8.9 However, as with the application 16/506320 which is also before the committee, the need for the removal of the condition and the impacts of the increase in pupil numbers needs to be properly assessed in order to ensure there is no harm that would outweigh this strong presumption that weighs heavily in favour of additional pupil numbers.

Need

- 8.10 The previous application set out the position that the Maidstone West Primary area will have a growing need for reception year places over the next three years, with a shortfall of 32 spaces in 2017/18 and 22 spaces in 2018/19. Since this decision in 2015, the position of need for primary school places requires further reflection to take account of population changes since that time and also the future growth that is occurring in the area. The application has been reviewed by the KCC Education who considers the additional pupils places to help meet the forecast pressure over the medium term and the school currently forms parts of its commissioning plan up until 2020. The response from KCC highlights deficits in the Maidstone West area of 35 places in 2016 with further deficits of 4 and 10 places from 2017-8 to 2019-20. Furthermore, the adjoining area of Maidstone North also presents a deficit of 92 places over the period to 2020. Whilst, KCC have commissioned 30 reception places at East Borough Primary School to try and address this demand, KCC have stated this is not a permanent solution.
- 8.11 KCC confirm that this overview of need does not take into account the need that would arise from the planned increase of new homes within the emerging plan and that this will quite logically drive up demand with the planning groups and potentially exacerbate the existing deficits. The extension to the school will contribute to meeting this need and avoid pupils having to attend schools further afield from their homes.
- 8.12 It is also pertinent that policy DM23 of the emerging Local Plan recognises the need for education as part of future growth but at the same time the current school provision within the commissioning plan does not take account of the future growth as set out in the emerging plan. Thus the fact planning policy places significant weight on the need to deliver further school places and that there is a significant need within the area, these factors weigh heavily in favour of the development.
- 8.13 However, the NPPF recognises that development should be sustainable and thus the impacts of the increase in pupil numbers it will facilitate in combination with the existing school will now be considered in more detail below;

School Standards including floorspace and playspace

- 8.14 It is recognised that councillors need to be content that the removal of condition 2 to allow an increase in pupil numbers can be accommodated on the site. Firstly, as set out in more detail in the accompanying report for 16/506320, the school would deliver a range of facilities through its extended form proposed by 16/506320 and the completed school would exceed the standards set out in BB103 which relate to standards for new schools although this does stress the need for flexibility depending

upon the circumstances of each case. For a 2FE School, the minimum standards are 2048sqm and the floorspace of the completed school building would be 2254sqm which exceeds the standards by 182sqm.

- 8.15 When the previous application 14/503957 was considered, one of the main concerns regarding the higher pupils numbers was the extent of outside/playing space associated with the school. There are several relevant documents that provide guidance on this issue. The most recent document entitled Advice on Standards for School Premises, produced by the Department of Education in March 2015, sets out that outdoor space is needed for PE, which includes the provision of games and also for pupils to play outside. Building Bulletin 103 sets out the standards of such space and this will be discussed further below. There are two types of outdoor space used for PE, sports pitches (such as grass and/or all weather) used for team games such as football, hockey and cricket and hard surfaced games courts (such as MUGA's) used for netball, tennis etc. Outdoor space is also needed for informal play and socialising, which is usually both hard and soft surfaced.
- 8.16 Page 14 deals with the issue of outdoor space in terms of on-site and off-site provision. It advises that *"Schools often need to maximise the use of their sites in order to provide the variety of spaces needed. Advice on the sizes of spaces can be found in the 'Area Guidelines for Mainstream Schools' in Building Bulletin 103". It also states that "some schools will be on restricted sites and will not have enough outdoor space to meet requirements. In these situations, pupils will need to be provided with access to suitable off-site provision"*.
- 8.17 Department of Education published its 'Area Guidelines for Mainstream Schools, Building Bulletin 103' in June 2014. It states on page 36 that *"some schools will be on restricted sites and will not have enough outdoor space to meet requirements on site. In these situations pupils will need to be provided with access to suitable off-site provision. On restricted sites, where space will be at a premium, a flexible approach to the site area and the management of the use of that area will be needed, and consideration should be given to providing the following, in priority order:*
- *Firstly, space for hard informal and social area including outdoor play area immediately accessible from nursery and reception classrooms;*
 - *Then hard outdoor PE space, to allow some PE or team games to be played without going off site, ideally in the form of a multi-use games area that can also be used as hard informal and social area;*
 - *Then soft informal and social area for wider range of outdoor educational opportunities and social space;*
 - *Finally some soft outdoor PE can be provided. If this is in the form of an all weather pitch, it can count twice towards the recommended minimum."*
- 8.18 The applicant has compared the extent of playspace that is being provided on site to the BB103 standards in the priority order outlined above. This is in recognition that BB103 accepts off-site provision is sometimes necessary but if space can be provided on site, it should be provided in the order as set out above.

The outdoor space is proposed to be set out as below;

(1) Hard informal and social area- on site provision of 856sqm against the BB103 requirement of 620sqm

(2)Hard Outdoor PE- on site provision of 197sqm against a requirement of BB103 of 1030sqm

(3)**Soft informal and Social Area**- on site provision of 423sqm against a requirement of 1440sqm

- 8.19 It can be seen above, that the playspace which is prioritised by BB103 (type 1 above) is provided above standard on site but the applicant recognises there is a shortfall in open space for the other categories. The layout seeks to provide a variety of play areas to provide variety and stimulation for pupils in the space available as well as the MUGA to the north of the site. In order to address the shortfall in the other types of playspace, the school would share facilities with Bower Grove School, which has both soft and hard play facilities. This is secured by a formal agreement between the schools, a copy of which is attached as **Appendix 1**, with the arrangement allowing Bower Grove to also utilise the facilities at Jubilee including the proposed new hall in the extension.
- 8.20 Further provision of soft outdoor PE will also be provided through the rental of the adjacent sports pitches (to the west) through the Maidstone Parks and Leisure department who confirm that there is availability during school hours (fields are only booked at weekends) and subject to costs and maintenance implications, the applicant would likely be able to block book field/s for use for sports and recreation like with any other user. This together with the Bower Grove facilities would provide access to facilities in accordance and potentially in excess with the BB103 standards. The new school extension will include the provision of an indoor hall and studio which will also provide additional play space within the site.
- 8.21 Bearing in mind BB103 relates to new school facilities, it does suggest some flexibility in relation to these standards by stating; *Some schools will be on restricted sites and will not have enough outdoor space to meet requirements on site. In these situations pupils will need to be provided with access to suitable off-site provision. On restricted sites, where space will be at a premium, a flexible approach to the site area and the management of the use of that area will be needed, and consideration should be given to providing the following, in priority order:* The school has met the type of space prioritised by BB103 and it is considered the proximity and likely availability of this off-site land and facilities within school hours makes this a feasible option to provide additional play space so pupils have proper access to such facilities as part of their schooling. The fact the BB103 guidance recognises that a flexible approach is sometimes needed, it is considered this approach would be acceptable in this case. This on the basis of the standards required for a 2 form entry primary school and a maximum of 420 pupils.
- 8.22. It is recognised that this outdoor space is largely dependent on off-site provision but perhaps most importantly the school delivers in excess of the requirement on site in relation to the type of space prioritised by BB103; Hard informal and social areas, which is the type most readily required by students and when formal PE space is required, this space can be provided on land that abuts the school site. This type of arrangement is common in many schools across the UK whereby the provision of PE playing space is reliant on off-site provision/utilising shared facilities across schools, but the fact the facilities are almost directly accessible from the site is considered to make this on site shortfall against the standards acceptable in officer's view.
- 8.23 Whilst, it is recognised the previous committee report raised concerns regarding the ability of the site to meet the standards for a 2FE Primary school for 420 pupils, further information is now available with regards to the hiring of the adjacent sports pitches and this together with the agreement with Bower Place and the facilities provided within the new scheme, it is now considered to meet the play space

requirements for a 420 pupil 2FE and thus should not weigh against the removal of condition 2.

Residential Amenity

- 8.24 The previous application, 14/503997, explored the issues of noise impact on adjoining properties with the submitted noise assessment at that time being based upon the potential for 420 pupils at the site. This report has been resubmitted with the current application. Whilst members ultimately decided to restrict the numbers of pupils to 240 falling to 220, these studies are useful in establishing the impact and the response of the council's specialist departments if this extension was constructed and condition 2 was removed as proposed by 16/506322. The main impacts are and were in the previous application, that of the drop and pick up of children and the impact of children in the playground at break times.
- 8.25 In relation to noise impacts from pick up and drop off, the previous noise assessment concludes that the predicted use of the external playground areas and student drop off/collection will not result in any unacceptable noise impact to residents at Gatland Lane and Sherbourne Drive. The environmental officer has stated that the development is unlikely to cause significant harm to local residential amenity by way of drop off and collections and this was a position accepted in the previous application.
- 8.26 In this application, the Environment Health raised the potential disturbance on adjoining occupiers by reason of noise from children in the playground although it is noted this was not raised as an objection in the original 2014 application. The noise report assesses this issue and considers the impact would not have a significant impact on residents bearing in mind the background levels and existing use. Following further discussions with the applicant and the planning officer, the Environmental Health officer has confirmed that subject to management measures, specifically the use of staggered break times for students, that he has now no objections to the scheme. The use of staggered break times can be secured by condition with is set out in condition 11 below which would require a management plan to be submitted to the council as part any approval under 16/506320.

Safety and Highways

- 8.27 The matters of road safety and safety to road users and pedestrians were a concern in the previous application, 14/503957 and have been again raised by residents and local groups. The application is supported by a Transport Statement and KCC Highways, Maidstone Borough Council and the applicants have been involved in further discussions regarding access, car parking and the general impacts on road safety. As part of these discussion further information has been provided with regards to parking beats, progress on works that were agreed under the parent permission and walking routes to the site. Before assessing the impact of the additional growth of the school it is necessary to consider the fact the conditions placed upon the original consent, 14/503957, will remain in place and the detail approved for these conditions, including those relating to Parent/Pupil Safety Plan (Condition 3), improvements to the highway (Condition 5), Dropping off policy (Condition 8) and pedestrian access (condition 9) were all based on 420 pupils. However, it is recognised there some approved details relating to conditions which were based on the lower pupil numbers such as the travel plan and thus it is recommended new conditions are applied to this application to deal with the issues

based on the higher pupil numbers. This includes a new travel plan condition to be applied to 16/506320 if approved. These conditions, both existing and proposed, will still need to be adhered to by the school in the event pupil numbers increase. These measures will obviously have some impact in reducing impacts and improving the safety of pedestrians at busy times.

Access and Parking

- 8.35 The development will utilise the existing access and will provide 37 parking spaces (including disabled provision) along with cycle parking to the south of the parking area. This is considered to be adequate to deal with the maximum number of full time 35 staff members (at full capacity) and bearing in mind the no drop off policy for general pupils, this parking provision is considered to be adequate. The access has also previously been considered to be safe and present no significant highway issues. On this basis and the limited increase of on-site activity, it is considered the access and parking arrangements are acceptable in relation to the increase in pupil numbers. Following receipt of further information KCC Highways have reviewed the scheme do not have any objections with regards to on-site parking or access to the site.

Impact of Traffic on Congestion/Road Network Capacity

- 8.36 There have been a number of concerns raised regarding the capacity of the local road network to cope with the increased traffic that could occur as a result of the intended growth of the school. Whilst recognising that the activity associated with the site would be largely restricted to AM and PM periods associated with school opening hours, it is necessary to fully consider the impact of the increased traffic. The Transport Statement states that the school as proposed by this application will generate an additional 69 vehicle trips or 138 two way vehicle movements in the morning and afternoon in comparison to the consented capacity. The report highlights the impact on junctions between Gatland Lane and Fant Lane and Gatland Lane, Farleigh Lane and Glebe Lane as being potentially affected by the new development. However, it concludes that the level of trips associated with the extension would not have a detrimental impact on the operation of the junction when compared to the consented level of growth.
- 8.37 The matter of the local highway network and its capacity for further growth was investigated in some detail in the Fant Farm appeal (ref: APP/U2235/W/16/31482) which relates to the development of up to 225 dwellings which lies within the locality of the school. The transport impacts of the development were considered in combination with the intended growth of the school and therefore the views of the Inspector on the impact on the wider highway network are very relevant to this application.
- 8.38 Firstly, the Inspector looked at the cumulative impacts of the residential development and its consented level and the category of road that Gatland Lane would best represent. He had the following comments;

'The appellant's Transport Assessment (TA) compared recorded traffic flows in Gatland Lane against urban road capacities set out in TA 79/99 of Design Manual for Roads and Bridges comparing it initially against UAP3, variable standard road carrying mixed traffic with frontage access, side roads, bus stops and at-grade pedestrian crossings, which has an indicative one-way hourly flow of 900. Gatland

Lane broadly matches the characteristics of UAP3 and this is not in my view an inappropriate comparator.'

'Taken together with the traffic projections for the appeal scheme, the Transport Statement results indicate that with the school operating at permitted capacity the total morning peak flows in 2018 on Gatland Lane west of the site access would be some 683 and east of the site access 642. This would still be significantly below the 900 theoretical capacity of a UAP3 road, and indeed below the 750 busiest directional flow capacity of a UAP4 road described as a busy high street carrying predominantly local traffic with frontage activity including loading and unloading.'

The resulting effect on the Gatland Lane/Farleigh Lane/Glebe Lane junction, which has been shown to operate currently with spare capacity, and on the Gatland Lane/Fant Lane junction would be modest with the junctions continuing to operate satisfactorily.

- 8.39 The Inspector then went onto consider the impacts should the school increase to 420 pupils (as this application was live at the time of the appeal);

'If expansion of the school to a 430 pupil intake was granted, there is shown to be a potential for traffic flows in Gatland Lane, including trips arising from the proposed development, of 756/815 in 2018 and 797/856 in 2025. Whilst this would exceed the UAP4 theoretical capacity of Gatland Lane, it would remain below the UAP3 capacity. Further, there is no certainty that permission will be granted and the assumptions in respect of school catchment would not necessarily hold true over this time period. It is reasonable for example to assume that some children from the proposed development would attend the enlarged school. If that was the case, they could reasonably be expected to walk to school resulting in fewer than anticipated vehicle movements.'

- 8.40 Therefore, in summary the Inspector has concluded that there is sufficient road capacity for both the residential development and that of Jubilee School even at its intended capacity of 420 pupils. As the Fant Farm scheme was dismissed on other grounds and thus this will not be coming forward, the Inspector conclusions robustly infer that the impact of the growth of Jubilee School will be acceptable in terms of the local road network and capacity. KCC Highways, in reviewing the scheme, also note the growth of the school would remain in capacity of the local highway network. This point is a significant material consideration which weighs in favour of the removal of condition 2.

Impact on highway as a result of parking associated with the school

- 8.41 The applicant also submitted parking beat data as part of the development which sought to establish the unrestricted parking capacity of the nearby roads and the current demand from the school at peak times, namely at school start and finish times. This included roads at Gatland Lane, Ridgeway, Cowdrey Close, Chamberlain Avenue, Burghclere Close, Sherbourne Drive and Portsdown Close, roads that are within walking distance or have sustainable links through to the school site. The scope of this survey was agreed with KCC Highways and essentially then calculates the capacity of the road network to accommodate parking from the proposed additional growth of the school. This information was provided to allow better understanding of the parking stresses that occurs at the peak times associated with the school use.

- 8.42 This parking beat data has been reviewed by KCC Highways and the officers recognise parking stress at peak times including in the afternoon where 100% parking occupancy is expected to occur at Ridgeway, Cowdrey Close, Chamberlain Avenue (part) and Burghclere Drive with 97% occupancies predicted at Gatland Lane and Sherbourne Drive within the study area. However, KCC does not consider effects to be severe in NPPF terms and considers these effects to present only minor conflict with peak time traffic and importantly that Gatland Lane remains within capacity. It is also pertinent to consider the extent of these effects particularly as full parking occupancy will only occur when the school is at maximum capacity and the effects will only last for a limited period around picking up time in the afternoon with the rest of the day being unaffected. KCC also consider mitigation can be provided in the form of a break in traffic on Gatland Lane for larger vehicles achieved by parking restrictions and the inclusion of a link to the recreation ground which was secured via condition of the parent planning permission.
- 8.43 Thus in summary, there is no significant adverse effects caused by the development on highway grounds on account of site specific highway matters or effects on the wider highway network. KCC highways raise no objection to the scheme subject to conditions requiring a construction management plan and travel plan.

Other Matters

- 8.36 The application is also supported by an air quality assessment which concludes that the impact on air quality during construction is not significant and over the lifetime of the development the impacts on the wider area are negligible. This assessment has been reviewed the environmental health officer who states the site is sufficient far away from any air quality hotspot and no significant impact will be caused by this development.

9.0 CONCLUSION

- 9.1 The approval of this application to remove condition 2 is dependent on the committee's decision on 16/506320 as if this is not approved then the condition remains necessary as there is a lack of accommodation within the site to accommodate the additional pupil increase that is currently restricted by condition 2. However, that being said, the officer assessment of this application and that of 16/506320 consider that there are no adverse effects that would arise from the proposed growth and extension of the school into the 2FE and thus if 16/506320 is granted planning permission, condition 2 should also be removed.
- 9.2 On the basis that there are no identified significant adverse effects as a result of the proposed additional pupil numbers and on the basis the other application is permitted, it is recommended condition 2 is removed to allow the school to be become a 2FE primary school. However, in order to provide greater control over the use and to limit pupil numbers to those to which have been assessed under these applications it is recommended a replacement condition is imposed to limit pupil numbers to 420 pupils.

11.0 RECOMMENDATION – GRANT and removal condition 2 of 14/503957 and impose the following condition as follows;

:

1. The maximum number of students enrolled in the school shall not exceed 420 pupils.

Planning Committee Report

Reason: To enable the LPA to regulate and control the site/building in the interests of the amenity of the area

INFORMATIVES

The remaining conditions on 14/503957 will continue to apply in full force.

Case Officer: Diane Chaplin

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

17th December 2014

Jubilee Primary School's occasional use of Bower Grove School's playing field

This letter is to confirm the outcome of our recent discussions surrounding Jubilee Primary School's proposed occasional use of Bower Grove School's playing field.

We thank you for confirmation that your school permits us occasional use of its playing field. Our use of your facility will be by prior arrangement and in a planned manner and we acknowledge that Bower Grove School will have priority use of the field. Likewise, we are happy to offer you use of classroom space for your intervention purposes and the like in the same manner. We consider this a mutually beneficial arrangement and should not be construed as constituting a binding agreement between us. This arrangement is open to review by either school for reasons, inter alia, of continued feasibility or relevance as circumstances dictate. We will, of course, act responsibly with respect to your playing field.

As ever I would like to thank you for your support and help and your longstanding major contribution to the Maidstone community.

Signed



Neil Pattison
Member Jubilee Primary School



Trevor Phipps
Head Teacher, Bower Grove School

REPORT SUMMARY

REFERENCE NO - 16/506795/FULL		
APPLICATION PROPOSAL Demolition of 164 Ashford Road and associated garaging and erection of a replacement dwelling and garage/ car barn, together with alterations to the access road to create new private vehicular access to serve 162 and 162A Ashford Road		
ADDRESS 164 Ashford Road Bearsted Kent ME14 4NB		
RECOMMENDATION GRANT PERMISSION subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION		
<ul style="list-style-type: none"> - The proposed replacement dwelling would not harm the countryside or surrounding landscape. - The proposed access would not have a significantly harmful impact on the street scene of Ashford Road or the character and appearance of the area. - The proposal is acceptable with regards to the residential amenity of neighbouring occupiers. - The development would be acceptable in highway and parking terms. - Matters relating to ecology, tree protection and landscaping could be suitably addressed by conditions 		
REASON FOR REFERRAL TO COMMITTEE		
The recommendation is contrary to the views of Bearsted Parish Council and they have requested the application be referred to the Planning Committee due to concerns regarding the proposed access.		
WARD Bearsted	PARISH/TOWN COUNCIL Bearsted	APPLICANT The Best Family, Mr & Mrs Back And Mr & Mrs Murphy AGENT DHA Planning
DECISION DUE DATE 23/11/16	PUBLICITY EXPIRY DATE 21/02/17	OFFICER SITE VISIT DATE Visited on a number of occasions
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):		
App No	Proposal/Decision	
164 Ashford Road		
66/0180/MK3	Entrance porch and conversion of bedroom to bathroom - Permitted	
162 Ashford Road		
92/1185	Single storey rear extension to kitchen – Permitted	
88/2384	Erection of new garage – Permitted	
72/0413/MK3	Outline application for the erection of one detached dwelling with garage and vehicular access – Permitted	
68/0113/MK3	Outline application for the erection of a dwelling - Permitted	
162A Ashford Road		
05/2309	Erection of a new detached dwelling with attached garage, plus demolition of existing garage and erection of a new attached garage to no 162 – Permitted	

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to the residential properties at 162, 162a and 164 Ashford Road.
- 1.02 162 Ashford Road fronts Ashford Road and is a 2-storey dwelling which has an existing vehicular access to the east of the property shared with 162a Ashford Road. 162a Ashford Road is an infill development comprising of a 2-storey dwelling approved to the rear of 162 in 2005. No.164 is a 2-storey dwelling accessed by a separate access drive from Ashford Road; the property is set back from the road, isolated from surrounding development and within a larger plot than other nearby properties. No.164 is currently empty and the building itself is in a poor state of repair and has been subject to vandalism and anti-social behaviour.
- 1.03 There are a number of trees within the site of no. 164, the majority of which are protected by a Tree Preservation Order (TPO). The site adjoins open countryside to the south-east, with this adjacent land at a lower level than the application site.
- 1.04 A public right of way (PROW) is sited along the north-east boundary of no 164. The PROW follows the route of the access drive and then is separated demarcated by fencing/planting.
- 1.05 The northern part of the application site is within the urban settlement boundary of Maidstone. The southern part of the site is within a Special Landscape Area (SLA) designated within the adopted local plan and a Landscape of Local Value (LLV) defined in the emerging local plan.

2.0 PROPOSAL

- 2.01 The proposal is for the following:
- Replacement dwelling
 - Garage/car barn
 - Amalgamation of accesses to 164 and 162/162A and creation of a single access to serve the three dwellings, which includes an extended parking area to 162A and associated retaining walls.

Replacement dwelling

	Existing	Proposed	Change (+/-)
No. of storeys	Two	Two	No change
Max height (approx.)	8.2m	8m	-0.2m
Max eaves height (approx.)	5.3m (varies across building)	4.8m	-0.5m
Max width (approx.)	15.9m	18m (including chimney breast)	+2.1m
Max depth (approx.)	14.6m	12.7m	+1.9m
No. of residential units	One	One	No change

Garage/car barn

- 2.02 This would be a detached building containing a double garage, car barn and garden store. It would be a maximum of 11.8m in width, 6.5m in depth and would have an eaves height of 2.4m and a ridge height of 5.9m.

Access

- 2.03 The proposed new shared access would be from Ashford Road. This access would replace the two existing accesses, one which serves 162 and 162A Ashford Road and one which serves 164 Ashford Road. The access would be 4.8m in width at the junction with Ashford Road, decreasing to 3.7m at the point it joins the proposed turning area for 164.
- 2.04 The new access would extend southwards for approximately 44m and would have two access spurs to the west to serve numbers 162 and 162A.
- 2.05 The application seeks to demonstrate the need for the extent of hardstanding proposed and the width of the driveway by providing tracking details for the turning of an estate car and emergency vehicles.

Extending drive and retaining wall to Number 162A

- 2.06 The driveway of number 162A would be extended by approximately 3m, with an approximate 2m high retaining wall separating 162A with 164 which is proposed to be constructed in terra form blocks which would be landscaped with native planting.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Public Right of Way KM77A

Tree Preservation Order (TPO)

Part of site outside settlement boundary (adopted and emerging local plans)

Part of site within settlement boundary (adopted and emerging local plans) – Northern part of the site

Special Landscape Area (adopted local plan) (SLA)

Landscape of Local Value (emerging local plan) (LLV)

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF):

National Planning Practice Guidance (NPPG):

Maidstone Borough Wide Local Plan 2000 :

Policy ENV6 : Landscaping, surfacing and boundary treatment

Policy ENV26 : Development affecting public footpaths and Public Rights of Way

Policy ENV28 : Development in the Countryside

Policy ENV34 ; Special Landscape Areas

Policy H32 : Replacement Dwellings in the Countryside

Policy T13 : Parking Standards

Maidstone Borough Local Plan May 2016 (submitted version)

Policy SP1 : Maidstone urban area

Policy SP17 : Countryside

Policy DM1 : Principles of good design

Policy DM3 : Historic and natural environment

Policy DM27 : Parking standards

Policy DM34 : Design principles in the countryside

Policy DM36 : Rebuilding and extending dwellings in the countryside

Five year housing land supply

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

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

- 4.02 Furthermore, paragraph 49 of the NPPF is clear that relevant policies for the supply of housing *“should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”.*

- 4.03 The Council has undertaken a Strategic Housing Market Assessment (SHMA) which was commissioned jointly with its housing market area partners: Ashford and Tonbridge & Malling Borough Councils. A key purpose of the SHMA is to quantify how many new homes are needed in the borough for the 20 year period of the emerging Maidstone Borough Local Plan (2011 to 2031). The SHMA has been the subject of a number of iterations following the publication of updated population projections by the Office for National Statistics and household projections by the Department for Communities and Local Government. At the meeting of the Strategic Planning, Sustainability and Transport Committee on 9 June 2015, Councillors agreed an objectively assessed housing need figure of 18,560 dwellings for the period 2011 to 2031. This figure was adopted as the Local Plan housing target by Council at its meeting on 25 January 2016.

- 4.04 The Maidstone Borough Local Plan was submitted to the Secretary of State for examination on 20 May 2016, and the Plan allocates housing sites considered to be in the most appropriate locations for the borough to meet its objectively assessed needs. The Housing Topic Paper, which was submitted with the Local Plan, demonstrates that the Council has a five-year supply of deliverable housing sites in accordance with paragraph 47 of the NPPF. The independent examination into the Local Plan commenced on 4 October 2016, and the closing session for the hearings was held on 24 January 2017. The examination itself will close following further public consultation on modifications to the Local Plan and receipt of the Inspector’s final report. Adoption of the Plan is expected in summer 2017.

- 4.05 Housing land supply monitoring is undertaken at a base date of 1 April each year. The Council's five-year supply position includes dwellings completed since 1 April 2011, extant planning permissions, Local Plan allocations, and a windfall allowance from small sites (1-4 units). The methodology used is PPG-compliant in that the past under-supply of dwellings against objectively assessed housing need is delivered in future years; it applies a discount rate for the non-implementation of extant sites; and a 5% buffer is applied. The position is set out in full in the Housing Topic Paper, which demonstrates the Council has **5.12 years'** worth of deliverable housing sites at 1 April 2016 against its objectively assessed need of 18,560 dwellings for the Plan period.
- 4.06 The Inspector issued a report on his 'Interim Findings from the Examination of the Maidstone Borough Local Plan' on 22 December 2016 (examination document reference ED110). In addition to confirming that it is reasonable to apply a 5% buffer to the borough's five-year housing land supply in accordance with paragraph 47 of the NPPF, the Inspector is recommending two key changes to the Council's housing land supply position.
- 4.07 First, the Inspector did not consider that the 5% market signals uplift set out in the SHMA would have the desired effect of boosting housing supply, nor that it was justified, particularly given the overall increase in past building rates that is expected as a result of the Local Plan allocations. Consequently, the borough's objectively assessed housing need is proposed to be reduced by 900 units to 17,660 dwellings for the period 2011 to 2031.
- 4.08 Second, the Inspector recommends the use of a 'Maidstone hybrid' method for the calculation of the borough's five-year housing land supply, which would deliver past under-supply over the next 10 years (as opposed to the next 5 years as set out in the Housing Topic Paper). This would result in a smoother and more realistic rate of delivery of dwellings over the Local Plan period.
- 4.09 The Inspector's interim report proposes additional modifications relating to the deletion or amendment of allocated sites, or to the phasing of allocated sites and broad locations. The report does not identify a need for further housing site allocations. In advance of public consultation on the formal modifications to the Local Plan, the interim findings have been applied to the borough's 20-year and five-year housing land supply tables which were set out in the Housing Topic Paper. The updated tables (examination document reference ED116) reveal a strengthened five-year supply position as at 1 April 2016, from 5.12 years to 6.11 years. The figures are not definitive because of the need for consultation on modifications in respect of the reduced housing need and proposed amendments to specific allocated sites, but they reaffirm a robust five-year housing land supply position and justify the assumptions being made. A full five-year housing land supply update will be undertaken through the annual housing information audit to produce the 1 April 2017 position.

5.0 LOCAL REPRESENTATIONS

5.01 Parish Council

Original consultation : We raise no objection to the replacement dwelling etc. but wish to raise objection to the widened vehicular access to create a new private vehicular access to serve 162 and 162A Ashford Road as we feel this is unnecessary.

Re-consultation : The committee are concerned with the negative environmental impact of this application. Such large scale felling of trees and removal of undergrowth will have a detrimental effect on the local area and surrounding properties. Access is already proven to be sufficient as fire appliances were easily able to access the property during the recent fire.

Bearsted Parish Council have no issues with the dwelling but wish to refer the application to the MBC Planning Committee for consideration that the widening of the access is refused.

Adjoining neighbours were notified of the application. A site notice was also put up at the site.

Five letters of objection were received following the original consultation, raising in summary the following objections :

- Widespread clearance on the site has affected the visual outlook
- Impact on local natural environment
- Aerial photos show extensive change
- Justification for moving access
- Lack of information
- Overlooking from 162A Ashford Road
- Trees shown on original consent for 162A now removed
- Harm during construction
- Loss of privacy
- Efforts to secure existing property have been poor
- No mention of SLA
- No mention of local appeal decisions
- No information reference drainage, lighting
- Trees and ecology survey not fit for purpose
- Suggested conditions for approval
- No need for access improvements
- Concern regarding future development of the site
- Queries regarding boundaries

Three letters of objection were received following the re-original consultation, raising in summary the following objections

- Comments remain unchanged
- Access improvements appear unnecessary
- Concerns regarding lights using access to number 162A
- Concerns regarding landscaping mitigation

5.02 Councillor Springett

I have now had a chance to review the TPO and the tree plan and Arboricultural Implications assessment provided by the applicant for the above application. In respect of the proposed dwelling I raise no objection. However, you will recall from our site visit that I stated I would not wish to see the large beech tree on the western boundary removed. This tree is numbered T3 on the TPO and T8 on the tree plan supplied by the developer. It is a mature tree of some 8 metres in height, and described in the Arboricultural Implications assessment as being in good structural condition and with an estimated 20-40 years life remaining. It is only recommended for removal to allow a retaining wall to be built, yet there would appear to be more

than sufficient room to route the retaining wall a little further to the east, thereby allowing retention of this large tree. I therefore wish to raise my **very strong objection** to the removal of this tree.

Furthermore, I am disappointed that the applicant has requested to remove trees T13 and T14 of their tree plan, (part of TPO group G13) purely to construct the terrace and open up views of the garden. The proposed terrace appears quite significant in size to allow views of the garden and it would appear that a slight change in the shape of the western part of the terrace would permit retention of these two trees, described in the Arboricultural Implications assessment as being in good structural condition, of up to 9 metres in height with an estimated 40+ years of life remaining. In view of the extensive tree removal that has already taken place within this site, I object to the unnecessary removal of these two trees.

5.03 Bearsted and Thurnham society :

Re-consultation

We welcome the revised positioning of the proposed replacement dwelling so that it will avoid the root protection area of trees that are protected by a Tree Preservation Order. We also welcome the deletion of the passing bay from the proposed access road, the generally reduced size of the proposed vehicular access and the increased amount of tree planting.

However, our main concerns and continued objections relate to the sheer scale of the environmental impact of this proposal which seems to us to be grossly excessive to simply provide a single replacement dwelling. This environmental impact is most conspicuous when viewed from the Ashford Road and has had a severe impact on the hitherto semi-rural setting of the existing dwellings.

We still consider the proposed access road to be excessive in size to serve just 3 dwellings and are very seriously concerned about the excessive and continuing felling of trees and removal of undergrowth. We, therefore, continue to object to this application on the grounds set out in our letter of 22nd November 2016.

We also consider that MBC should take whatever action it can to enforce the Tree Preservation Orders that have now been served on the application site and secure adequate replanting to maintain the attractive landscape character of the area.

We also continue to recommend that in order to remedy the environmental vandalism that has already taken place within the application site, that any planning permission granted for the replacement dwelling must be subject to a condition requiring the submission and prior approval by MBC of a comprehensive screening, landscaping and tree planting scheme to cover the entire application site specifically to remedy the environmental damage already done and to protect the residential amenities of adjacent and nearby dwellings and to include the retention of as many of the existing trees and as much of the existing natural vegetation as possible.

6.0 CONSULTATIONS

6.01 KCC Public Right of Way Officer

Public Rights of Way KM77A footpath runs along the north eastern boundary of the site and should not affect the application.

6.02 Natural England

No comments and refer to standing advice.

6.03 Environmental Services

No objection

6.04 KCC Highways

On behalf of the highway authority I write to confirm that I have no objections to this proposal. On points of clarification I note that the site layout plan refers to transport drawings T003 and T004. I have been unable to find these. I also note a drawing regarding proposed oak gate and fencing detail and I am unsure what this relates to.

It is considered that for safety reasons the access improvements should be constructed at an early stage and completed prior to occupation. Submission of a construction management plan for approval prior to commencement designed to maximise safety and minimise disruption is considered appropriate.

Re-consultation

I note the driveway widths proposed and consider that these are sufficient to allow for all non-exceptional situations. I write to confirm on behalf of this authority that I have no objection to the proposal and no further comments to add to my response of 25th October 2016.

6.05 Southern Water

Standing advice and seeks a condition relating to surface water drainage

6.06 KCC Archaeological Officer

No comments

6.07 Tree Officer (re-consultation)

The revised proposals show the removal of T8 (T3 of the TPO), a Beech tree. Unfortunately, recent severe crown reduction work has been detrimental to its amenity value and life expectancy. Likewise, trees T13, T14, T15 and T19, which are shown to be removed, are of poor quality/condition; two of these trees are categorised as U grade trees (one of which is dead and not protected) and two are C grade.

The Order was made to ensure that if trees were assessed and not considered worthy of retention suitable replacement tree planting could be secured. In this case there are no arboricultural grounds on which to refuse the application subject to a condition requiring compliance with the Tree Protection Plan and accompanying report and landscape conditions which specifically ensure sufficient replacement tree planting to mitigate the loss of the protected trees.

7.0 BACKGROUND PAPERS AND PLANS

Application form
Planning Statement

Extended Phase 1 Habitat and Bat Scoping Survey
Tree Survey Report dated January 2017
Additional letter dated 10th April 2017 from Greenspace Ecological Solutions

Drwg DHA/11271/04 (Existing Dwelling elevations)
Drwg DHA/11271/03 Rev B (Existing dwelling floor plans)
Drwg DHA/11271/10 (Existing single garage, floor plan and elevations)
Drwg DHA/11271/07 (Proposed Elevations)
Drwg DHA/11271/06 (Proposed Floor Plans)
Drwg DHA/11271/08 (Proposed Garaging)
Drwg DHA/11271/SK01 (Massing comparative)
Drwg DHA/11271/05 Rev A (Site Layout Plan)
Drwg DHA/11271/01 (Site Location Plan)
Drwg DHA/11271/02 (Existing Site Plan)
Drwg T-03 rev P5 (Proposed Access Design)
Drwg T-06 rev P1 (Vehicle swept path analysis)
Drwg DHA/11271/13 (Proposed retaining wall construction detail)
Drwg DHA/11271/14 (Terraforce details)
Drwg DHA/11271/12 (Elevations through retaining wall)
Drwg DHA/11271/11 (Sections through retaining wall)
Drwg DHA/11271/10 (Existing and Proposed site plan boundary of 162A)

8.0 APPRAISAL

Principle of development

Replacement dwelling

- 8.01 The northern part of the application site is within the urban settlement boundary of Maidstone. The southern part of the site is within a Special Landscape Area (SLA) designated within the adopted local plan and a Landscape of Local Value (LLV) defined in the emerging local plan. The siting of the existing dwelling itself and the wider curtilage to the south is outside the defined settlement boundary and is as such within open countryside defined in the adopted Local Plan.
- 8.02 Policy ENV28 sets out development acceptable within the countryside, this allows at point 5 for '*such other exceptions as indicated by policies elsewhere in this plan*'. Policy H32 allows for replacements dwellings provided it can satisfy the following criteria :
- 1) *The present dwelling has a lawful residential use*
 - 2) *The present dwelling is not the result of a temporary planning permission*
 - 3) *The new dwelling is no more visually intrusive than the original dwelling*
 - 4) *The new dwelling is sited to preclude retention of the dwelling it is intended to replace*
 - 5) *The new dwelling has a safe access*
 - 6) *The existing dwelling is not a Listed Building*
 - 7) *The proposed does not result in an unacceptable loss of amenity or privacy for adjoining residential properties*
- 8.03 Policy SP17 of the emerging local plan relates to the countryside, allowing for development that does not harm the character and appearance of an area which meets the criteria set out. Replacement dwellings are permitted under Policy DM36 provided they meet the criteria set out; these criteria replicate points 1, 2, 4 and 6 above and include the following:

- 4) The mass and volume of the replacement dwelling is no more visually harmful than the original dwelling
- 5) The replacement dwelling would result in a development which individually or cumulatively is visually acceptable in the countryside.

8.04 The existing dwelling benefits from a lawful residential use, it does not relate to a temporary consent and is not a Listed Building. Matters relating to visual amenity, access and residential amenity are discussed in greater detail in the report below.
Access

8.05 The access itself is within the settlement boundary and would replace two existing accesses, subject to the detailed consideration of the material planning matters below it is considered that the principle of the vehicular access is acceptable.

Visual amenity (including impact on SLA and LLV)

8.06 Policy ENV28 of the adopted local plan seeks to protect the countryside and not support development which would harm the character and appearance of the area. Policy ENV34 defines the Special Landscape Area (SLA) and sets out that *'particular attention will be given to the protection and conservation of the scenic quality and distinctive character of the area and priority will be given to the landscape over other planning considerations.'*

8.07 Policy SP17 of the emerging local plan seeks to ensure that proposals do not harm the character and appearance of an area, conserve, maintain and enhance where appropriate the Len Valley Landscape of Local Value (LLV) and protect natural assets. Policy DM1 seeks high quality design and proposals to respond positively to and where possible enhance local character, respond to topography and sensitively incorporate natural features and promote high quality design. Policy DM34 seeks proposals not to result in harm to landscapes of local value and landscapes of highest value.

Replacement dwelling

8.08 The existing dwelling is in a state of disrepair. The property has been subject to multiple break-ins, instances of anti-social behaviour and arson. The existing dwelling has been subject to limited extension or alteration.

8.09 Policy H32 of the adopted local plan sets out that a replacement dwelling should be no more visually intrusive than the dwelling it replaces. Policy DM36 of the emerging local plan sets out that the mass and volume of a replacement dwelling should be no more visually harmful and would not result in cumulative harm

8.10 As the summary table in the proposal section above sets out, the proposed footprint of the new building would not be dissimilar to the existing dwelling and the overall height would be slightly lower. The new dwelling overall would have a greater mass and volume, especially where the existing cat slide roofs are replaced by fully two-storey elements. Notwithstanding the greater mass and volume, the proposed dwelling when compared to the existing dwelling would not result in any more visual intrusion and would not cause any significant additional harm to the character and appearance of the surrounding area including the designated SLA and emerging LLV. The proposed design, mass and volume are considered acceptable

- 8.11 The replacement garage would be larger than the existing single garage, however it is not considered unreasonable for a dwelling of the size proposed to benefit from a triple garage and garden store. The proposed design and appearance of the building would be in keeping with the proposed dwelling and it is not considered that the building independently or cumulatively would harm the countryside or surrounding landscape.

Access

- 8.12 All the works relating to the proposed access and parking rearrangements to numbers 162 and 162A fall within the settlement boundary and outside the landscape designations of the SLA and the emerging LLV. These works would amalgamate two existing accesses thus resulting in an access width at the junction with Ashford Road of 4.8m. Vehicular accesses are characteristic of the street scene, with most properties along this stretch of Ashford Road benefiting from individual vehicular access points. The dimensions, surfacing, boundary treatment and other characteristics of this existing access vary along the road.
- 8.13 The applicants have removed a number of trees and shrubs that previously separated the accesses to 164 and 162/162A (together with other trees on the site), this has opened up the frontage and changed the characteristics.
- 8.14 The existing access for no.164 is currently substandard for its purpose and uses. The access serves no.164, forms a PROW and provides an historic right of way enabling access to the fields to the south-east of the application site. The applicant has set out that the access no longer allows for modern farming equipment to reach the fields. The applicant has also provided a letter from a demolition company that states that currently they would not be able to demolish the existing dwelling due to the poor access arrangements.
- 8.15 The proposed access although wider, would not be unreasonable in width and would allow for the PROW to be separated, with room to accommodate a grass verge/planting within the frontage of 162 Ashford Road (controlled by condition).
- 8.16 The footpath along Ashford Road already contains a dropped kerb the full width of the distance between both existing accesses and as such no change to the footpath is proposed. The PROW sign and electricity pylon would need relocating but there is no apparent reason to suggest this would not be possible with the practicalities of doing this a matter for the applicants to resolve separately. There would be no increase in the amount of hardsurfacing at the junction with Ashford Road, it would however be amalgamated into a single width rather than the two sections currently separated by planting. The loss of planting could be mitigated by providing additional planting to the west of the access alongside the boundary for 162 Ashford Road. Surfacing material could be conditioned, as could any new or replacement boundary treatment.
- 8.17 It is considered in the context of the street scene and the appraisal set out above that the proposed amalgamation of the existing accesses would not result in any significant harm to the visual amenity of the street scene.

Extending drive and retaining wall to Number 162A

- 8.18 Within the site it is proposed to provide a formalised access to 164 and provide two access spurs to serve numbers 162 and 162A. In addition a turning area would be

provided within the site of 164 and to facilitate the new driveways to 162 and 162A, new retaining walls are proposed.

- 8.19 The access to no 164 is currently relatively informal. A formalised access and turning area to modern standards would not be unreasonable to serve this residential dwelling. The visual impact would be acceptable and there is significant scope for additional landscaping (some of which is indicated on the submitted site layout plan).
- 8.20 The new access spurs to 162 and 162A would not be out of character and would replace existing access arrangement and would not cause harm to visual amenity.
- 8.21 The extended driveway to 162A would involve the removal of an existing Beech Tree; this is one of the few trees that remain along the northern part of the eastern site boundary. Recent severe crown reduction work to this tree has been detrimental to its amenity value and life expectancy. The council's Tree Officer has advised that with this situation there are no grounds to refuse the application due to the loss of this tree subject to a condition securing a replacement tree. The proposed engineering works to provide the new retaining wall, which would be visible from within the site of no 164, have been sensitively designed and incorporate the use of terraform blocks which will allow the planting of native species in a green wall.
- 8.22 These works are considered reasonable and would not cause significant harm to the visual amenity of the street scene, the wider area or any landscape designations.

Overall

- 8.23 The proposed works, subject to conditions, individually and cumulatively would be acceptable and would not cause any significant harm to the visual amenity of the street scene, the wider area or any landscape designations.

Residential amenity

- 8.24 Paragraph 17 of the NPPF sets out the core planning principles which includes :
- 'Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'*
- 8.25 Policy DM1 of the emerging local plan sets out at that proposals shall :
- 'Respect the amenities of occupiers of neighbouring properties and uses and provide adequate residential amenities for future occupiers of the development by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.'*
- 8.26 No 162 Ashford Road forms part of the linear pattern of residential development along Ashford Road and the properties at no. 162A and no.164 set behind properties fronting Ashford Road also part of this existing character. No. 164 Ashford Road is separated from any neighbouring dwellings, set back significantly from the road frontage and sited within extensive grounds. No's 166 and 166a adjoin the north-west site boundary, the rear gardens of properties forming a cul-de-sac off Ashford Road and Bodsham Crescent adjoin the site to the western boundary and the gardens of properties in Button Lane adjoin the site to the south.

- 8.27 The existing residential use of the site would remain unchanged, there would be no increase in the number of dwellings, the development is restricted to the northern part of the site and the footprint of the proposed replacement dwelling is similar to the existing dwelling.
- 8.28 Those properties most likely to be affected are 166 and 166a Ashford Road. These dwellings are both chalet bungalows and adjoin the site to the north-east. The existing dwelling at 164 is at an oblique angle to these neighbouring properties and the existing cat-slide roof to the front restricts the number of windows in the north-east facing elevation.
- 8.29 The proposal would introduce additional windows in the front elevation when compared to the existing dwelling. It is considered that these windows are acceptable given the separation distance of over 50m from neighbouring dwellings and over 15m to the site boundary. The proposal is acceptable in relation to overlooking and loss of privacy. The proposed height and footprint of the replacement dwelling would not be significantly greater than the existing dwelling. It is considered that the new dwelling is acceptable in relation to outlook, daylight and sunlight and will not be overbearing, or result in overshadowing.
- 8.30 It is acknowledged that the new garage is larger than the existing single storey flat roof garage, and at a closer point to the boundary than the dwelling itself. Notwithstanding these factors, it is noted that the garage would be sited approximately 5m from the site boundary, it would be single storey and the roof would slope away from the boundary. After considering all of these factors, it is considered that the new garage is acceptable in relation to neighbouring amenity.
- 8.31 As the access is to the west of the property at 166a Ashford Road this property is most likely to be impacted. No. 166a is a chalet bungalow which has a dormer window facing towards the application site, with windows serving first floor bedrooms, the property is separated from the application site by a close boarded fence. The existing access to number 164 is closer to the site boundary than the proposed access, with the access moved approximately 2m further away from the boundary. The use of the access would increase and is proposed to serve 3 dwellings, a net increase of 2 dwellings. It is unlikely that this increased use would cause significant additional noise and disturbance.
- 8.32 Concern is raised by the occupiers of 166a that the headlights of vehicles entering and leaving 162a would face directly towards their property. Information has been provided to demonstrate vehicle tracking for an estate car travelling from the parking area proposed to number 162a. This modelling shows that it is more likely that the car headlights would be orientated beyond the front wall of 162a rather than pointing directly towards the property.
- 8.33 Overall the proposed development would not result in undue harm to neighbouring residential amenity including properties located on Button Lane, Bodsham Crescent and properties at 156, 156a and 156b Ashford Road.

Impact on trees

- 8.34 The application site has undergone recent tree removal and as a consequence a Tree Preservation Order has been placed on many of the trees within the site. This order has now been confirmed and ensures protection for the trees included within

the order. The Order was made to ensure that if trees were assessed and not considered worthy of retention suitable replacement tree planting could be secured.

- 8.35 The revised proposals show the removal of T8 (T3 of the TPO), a Beech tree. Unfortunately, recent severe crown reduction work has been detrimental to its amenity value and life expectancy. Likewise, trees T13, T14, T15 and T19, which are shown to be removed, are of poor quality/condition; two of these trees are categorised as U grade trees (one of which is dead and not protected) and two are C grade.
- 8.36 The position of the replacement dwelling has been amended to move it away from protected trees. The proposed siting is considered acceptable and would not result in harm to protected trees, would not lead to harm to the future health of the trees or pressure for the removal of the trees on overshadowing grounds.
- 8.37 If members are minded to grant permission it is recommended that a landscaping scheme is secured, this would allow the opportunity to provide additional/replacement planting either side of the access to the north of the site. As the proposed works are centred around the northern part of the site, it is not considered reasonable to secure additional landscaping or management within the wider site as suggested in consultation responses. The confirmed TPO provides suitable protection of the existing trees within the site.
- 8.38 Subject to compliance with the tree protection plan and accompanying reports and a landscaping condition it is considered that the impact on trees would be acceptable.

Impact on ecology

- 8.39 The application is accompanied by an Extended Phase 1 Habitat and Bat Scoping Survey which has been prepared by a competent professional. The report identifies that there is a likely to be badgers, foxes, rabbits, breeding birds and reptiles within the site.
- 8.40 With regard to badgers, mammal holes were found to the southern part of the application site, some distance from where the proposed works would take place. As such subject to sensitive working methodology set out in the ecology report it is not considered undue harm would result to mammal populations.
- 8.41 The site demonstrates optimal nesting habitats for breeding birds and as such works should be carried out in accordance with the report recommendations. This includes carrying out works outside the core breeding bird period or if unachievable then thorough searches for breeding birds should be conducted by an experienced ecologist.
- 8.42 Log piles within the site provide suitable sheltering and hibernating habitat for reptiles and the report recommends that any movement of these is carried out sensitively and in accordance with the recommendations within the report.
- 8.43 The existing dwelling has a high suitability to support roosting bats and the report concludes that further survey works would be required in the form of an emergence survey. The applicants have provided an additional letter dated 10th April 2017 to state that the further survey work is scheduled for May-September 2017. The additional information sets out that mitigation measures are possible.

- 8.44 The applicant has been asked to respond to comments received from the KCC biodiversity officer and an update will be given to members once this has been received.

Impact on PROW

- 8.45 The existing Public Right of Way (PROW) shares the existing access drive serving no. 164 from Ashford Road to the north and follows the north-eastern boundary of the application site.
- 8.45 The proposed works would maintain the existing PROW but separate it from the proposed vehicular access. The KCC Public Right of Way Officer is satisfied that the proposed works and access arrangements would not impact on the maintenance and retention of the PROW. The existing PROW signage would need to be relocated to facilitate the new access arrangements and separate consent may be required from KCC for this.

Highways and parking matters

- 8.47 The proposal would facilitate improved access arrangements to 164, 162 and 162a Ashford Road and provide parking for each of these dwellings.
- 8.48 The proposal would provide sufficient parking for each dwelling and the new access would be acceptable in terms of highway safety. Kent Highways raises no objection to the proposed development.

10.0 CONCLUSION

- 10.01 The principle of the replacement dwelling and new access arrangements is considered acceptable and the proposed design and appearance of the new property would not harm the character or the context of the site. The proposal is acceptable in relation to neighbouring amenity. The proposed development would be in accordance with current policy and guidance.

11.0 RECOMMENDATION – GRANT Subject to the following conditions :

CONDITIONS to include

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements 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:

Extended Phase 1 Habitat and Bat Scoping Survey
Tree Survey Report dated January 2017
Additional letter dated 10th April 2017 from Greenspace Ecological Solutions

Drwg DHA/11271/07 (Proposed Elevations)

Drwg DHA/11271/06 (Proposed Floor Plans)
Drwg DHA/11271/08 (Proposed Garaging)
Drwg DHA/11271/05 Rev B (Site Layout Plan)
Drwg T-03 rev P5 (Proposed Access Design)
Drwg T-06 rev P1 (Vehicle swept path analysis)
Drwg DHA/11271/13 (Proposed retaining wall construction detail)
Drwg DHA/11271/14 (Terraforce details)
Drwg DHA/11271/12 (Elevations through retaining wall)
Drwg DHA/11271/11 (Sections through retaining wall)
Drwg DHA/11271/10 (Existing and Proposed site plan boundary of 162A)

Reason: To clarify which plans have been approved.

- (3) Written details including source/ manufacturer, and samples of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the development shall be carried out using the approved external materials.

Reason: In the interests of visual amenity

- (4) The approved details of the access/parking/turning areas shall be completed before the occupation of the replacement dwelling at 164 Ashford Road hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

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

- (5) The development hereby approved shall not commence until the tree protection in accordance with the current edition of BS 5837 shown on Drawing 16-402-TPP-Rev-A (Tree Protection Plan) has been provided on site. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- (6) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed, provide details of on site replacement planting to mitigate any loss of amenity and biodiversity value [together with the location of any habitat piles] and include a planting specification, a programme of implementation

and a [5] year management plan. The landscape scheme shall specifically address the need to provide replacement trees for those proposed to be removed, include the provision of a replacement hedge/planting along the along western edge of the driveway which shall include species of common hawthorn, hazel, guilder rose, spindle, dog rose and honeysuckle and should provide planting within the boundary of 164 Ashford Road for the areas of the site adjoining the boundaries with 162a and 166a.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- (7) All planting, seeding and turfing specified in the approved landscape details shall be carried out in the planting season following occupation of the replacement dwelling hereby permitted or the season following the commencement of the use of the proposed new access whichever is the sooner. All such landscaping shall be carried out during the planting season (October to February). Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- (8) Prior to any development above damp proof course level details of how renewable or low-carbon sources of energy will be incorporated into the development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason: To ensure an energy efficient form of development.

- (9) Prior to any development above damp proof course level details for a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the replacement dwelling by means such as swift bricks, bat tube or bricks. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.

Reason : To protect and enhance the ecology and biodiversity on the site in the future.

- (10) Prior to the commencement of the access drive hereby permitted details and samples of the surfacing material shall be submitted to and approved by the Local Planning Authority and the works carried out in accordance with the submitted details. Where possible the surfacing materials shall be permeable, a bound surface shall be provided for at least the first 5metres of the access from the edge of the highway and these details shall include details of the surfacing of the driveway, Public Right of Way and parking areas.

Reason : In the interests of visual amenity, highways safety and the use of the Public Right of Way.

- (11) Prior to the commencement of development details of the following shall be submitted to and approved by the local planning authority and the works carried out in accordance with the approved details :

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

Reason : In the interests of highway safety during construction. The details are required prior to commencement as the details relate to construction phase.

- (12) Any future gates to the proposed access hereby permitted shall open away from the highway and be set back a minimum of 5 metres from the edge of the carriageway.

Reason : In the interests of highway safety.

INFORMATIVES

- (1) You are advised that:
- a) No furniture may be erected on or across the Public Right of Way without the express consent of Kent County Council as the Highway Authority.
 - b) There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development without the permission of Kent County Council.
 - c) No hedging or shrubs should be planted within 1.0 metres of the edge of the Public Path.
 - d) You are advised that the erection of fencing or other structures can require planning permission.
 - e) No Materials can be brought onto site or stored on the Right of Way.

You are also advised that the granting of planning permission confers on the developer no other permission or consent or right to close or divert any Public Right of Way at any time without the express permission of Kent County Council as the Highway Authority.

- (2) Planning permission does not convey any approval for construction of the vehicular crossings, or any other works within the highway, for which a statutory licence must be obtained separately. Applicants should contact Kent County Council Highways (www.kent.gov.uk or 03000 41 81 81) for further information.

Case Officer: Rachael Elliott

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

REPORT SUMMARY

REFERENCE NO - 16/508284/full		
APPLICATION PROPOSAL Erection of two bedroom bungalow.		
ADDRESS Land Adjacent The Mews Buckland Lane Maidstone Kent ME16 0BH		
RECOMMENDATION - REFUSE PERMISSION for the reasons set out in Section 10.0.		
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL -The proposed development would be detrimental to the character and visual amenities of the area as it would represent an undesirable consolidation of, and extension to built development in the rural area that is outside the defined urban boundary. -The cramped nature of development in comparison to the surrounding properties would be out of keeping with the character and appearance of the area -The development would not result in significant environmental improvement in comparison to the authorised low-key use of the site for vehicle parking.		
REASON FOR REFERRAL TO COMMITTEE Called in by Cllr English whether officer recommendation to approve or refuse to enable the consideration of the development of a brownfield site to be discussed.		
WARD Bridge	PARISH/TOWN N/A	COUNCIL
		APPLICANT Mr A Salvidge AGENT Kevin Wise Town Planning
DECISION DUE DATE 30/01/17	PUBLICITY EXPIRY DATE 03/03/17	OFFICER SITE VISIT DATE Visited on a number of occasions
RELEVANT PLANNING HISTORY (inc. appeals and relevant history on adjoining sites):		
App No	Proposal	
Application site		
16/505276/FULL	Erection of a new dwelling including detached garage. – Refused permission for following reason : <i>The proposed development would be detrimental to the character and visual amenities of the area as it would represent an undesirable consolidation of, and extension to an area of built development in the rural area outside the defined urban boundary and due to the cramped nature of development in comparison to the surrounding properties would be out of character with the character and appearance of this small rural enclave located close to the urban area of Maidstone, contrary to the National Planning Policy Framework 2012, Policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and Policies SP17, DM1, DM3 and DM34 of the Maidstone Borough Local Plan Publication May 2016 (Submitted version)</i>	
82/1358	Outline application for one dwelling and garage – Refused and dismissed at appeal	
97/0952	Certificate of Lawful Development under Section 191 for existing use of land for the parking of a building contractor's lorry - Approved	

Application site and site to the west	
96/1103	Erection of detached house and double garage - Refused
97/1417	Erection of a detached three bedroom cottage and detached double garage. - Withdrawn
99/0080	Erection of detached three bedroom cottage and detached double garage – Refused
Land to the west	
78/0073	Outline application for one dwelling – Refused and dismissed at appeal
80/2095	Outline application for erection of single detached dwelling and garage – Refused and dismissed at appeal
89/0025	Outline application for erection of a dwelling. – Refused
Land to the north (The Mews and Barn Lodge)	
75/0725	Conversion of barn and outbuildings into dwelling and double garage involving listed building consent - Approved
75/1166	Conversion of agricultural building into dwelling – Approved
Land to the east (The Willows, The Birches and Little Buckland Place)	
Various applications relating to the erection of 3 new dwellings in the late 1970s/early 1980s.	
The Willows	
99/1670	Erection of detached two storey dwelling with integral double garage – Refused

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land located on the eastern most part of Buckland Lane. The site is located to the east of the railway line and accessed by a private road which passes underneath the railway line. The site is on the south side of the road and opposite 'The Mews'.
- 1.02 An area of the site is currently overgrown with a number of self seeded trees and several large poplar trees to the eastern and western boundaries of the site. The site benefits from a gated vehicle access onto Buckland Lane.
- 1.03 The site is outside the defined urban boundary of Maidstone (the boundaries lies to the west of the railway line) and as such is located within open countryside. There are a total of 7 existing dwellings located along this part of Buckland Lane, four of which form part of the historic farmstead including old agricultural buildings converted to residential and two listed buildings (Farm Cottage and Little Buckland Farm). The three properties to the extreme east of the access road are newer dwellings built in the late 1970s/early 1980s; these properties are two storeys in height and located in large, spacious plots.
- 1.04 The application site benefits from a certificate of lawful development granted in 1997 for the use of the front part of the site for the parking of a building contractor's lorry. There was no evidence at the time of the Officers original site visit of any parking of a vehicle and the overgrown ground conditions suggest that the site had not been used for parking for some time. At the time of the additional site visit for this re-submission a flat-bed lorry was parked on the front part of the application site. A five bar access gate however remains at the entrance to the site.

2.0 PROPOSAL

- 2.01 The proposal seeks to erect a new single storey dwelling

The new dwelling would be sited to the front of the site and would be L-shaped with a maximum of length of 10.1m, a maximum width of 8.1m and a pitch roof with an eaves height of 2.8m and a maximum height of 5.3m.

The dwelling would have two bedrooms and benefit from a bathroom and an open plan kitchen/lounge/diner.

The dwelling would be predominantly finished in a feather-edged weatherboard finish under a tiled roof.

- 2.02 A gravel drive-way would be located to the east of the proposed dwelling, with two off street parking spaces also provided.

- 2.03 A 1.2m high ragstone wall is proposed along the Buckland Lane frontage.

- 2.04 Indicative replacement tree planting is shown along the east and western boundaries with the garden area principally proposed to be laid to lawn.

3.0 PLANNING CONSTRAINTS

Potential Archaeological Importance

Outside the settlement boundary (adopted and emerging local plans)

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

Maidstone Borough Wide Local Plan 2000 :
Policy ENV6 : Landscaping, surfacing and boundary treatment
Policy ENV28 : Development in the Countryside
Policy T13 : Parking Standards

Maidstone Borough Local Plan May 2016 (submitted version)
Policy SP1 : Maidstone urban area
Policy SP17 : Countryside
Policy DM1 : Principles of good design
Policy DM3 : Historic and natural environment
Policy DM4 : Brownfield Land
Policy DM27 : Parking standards
Policy DM34 : Design principles in the countryside

5.0 LOCAL REPRESENTATIONS

- 5.01 Adjoining neighbours were notified of the application. A site notice was also put up at the site.
- 5.02 Two letters of support were received following the original consultation, raising in summary the following comments :

Have witnessed this site being occupied for many uses. There was a mobile home situated on this site in 1979, for a period of at least two years before it was moved. A previous owner stored approximately thirty cars and lorries for a considerable time, which caused an eyesore and considerable nuisance to others. Since 1983, a new owner used the land to operate an HGV lorry to run a building company. For a period of time, the site has become overgrown and derelict, but we note that the site is in use again for the storage of an HGV lorry. We are concerned that if the land changes hands, the existing lorry use could escalate and become an eyesore to all the occupants of the existing seven dwellings. This has certainly been the case in the past. We therefore believe that the best outcome for all residents that live in this beautiful enclave, Buckland Farm, would be to allow this proposal to build a small single storey property, which would finally put all the anxieties of the past to rest.

The applicant has previously built and converted dwellings to a high standard.

6.0 CONSULTATIONS

6.01 Environmental Health Officer

The site is in a suburban area, and traffic noise is unlikely to be a significant problem for this particular site. Although near to a railway line, I believe that the site is sufficiently distant and to some extent screened, for no acoustic or vibrational assessment to be required.

The site is within the Maidstone Town Air Quality Management Area, but I do not consider the scale of this development and/or its site position warrants either an air quality assessment or an Air Quality Emissions Reduction condition applied to it.

The site is close to the railway line land which is on the council's potential contaminated land list, but it is the current brownfield use of the site as an HGV parking site which leads me to consider that it would be prudent to apply a contaminated land condition to any permission granted. There is no indication of any significant chance of high radon concentrations.

The application form states that foul sewage will be dealt with via mains system; and there are no known Private Water Supplies in the vicinity.

Any demolition or construction activities may have an impact on local residents and so the usual conditions/informatives should apply in this respect.

6.02 Natural England

Highlight the standing advice and raise no objection

6.03 Tree Officer

There are no protected trees on or immediately adjacent to, the site. There are significant trees present and, whilst a tree report has been provided by the applicant, it is not sufficiently detailed for me to take a view. If minded to approve I need to see a survey in accordance with BS5837: 2012 which includes an individual assessment of each tree and covers all the trees on site. A tree survey plan is also required.

6.04 Conservation Officer (comments received on application 16/505276)

The site lies within a small residential enclave separated from nearby development by the railway line. It includes three listed buildings – Little Buckland Farm, a converted barn and, immediately adjacent to the application site, Little Buckland Farm Cottage, a Grade II* house dating from the 14th Century.

The proposal is to erect a dwelling on this long, narrow site which contains a number of trees (and some which have recently been felled). The arboricultural report accompanying the application states that these are in poor health and not suitable for retention. I suggest that the Landscape Team be consulted on this aspect of the application.

The site is currently well-screened from Little Buckland Farm Cottage, both by trees within the application site and planting within the grounds of the listed building. Notwithstanding the potential loss of trees within the application site, I consider that the proposed development would remain well-screened from Little Buckland Farm Cottage, particularly if substantial boundary planting were required by condition. In design terms I consider the proposal to be acceptable, the house being in a vernacular style with something of the appearance of a farm building; although of two storeys, the house would be dug into the rising land on the application site, thus reducing its scale and visual impact. In my view the development is unlikely to cause harm to the setting of Little Buckland Farm Cottage or to those of the other nearby listed buildings.

I raise no objection to this application on heritage grounds subject to conditions re samples of materials, landscaping and slab levels.

6.05 Kent Highways (comments received on application 16/505276)

I refer to the above planning application and note that the site is located on a section of Buckland Lane that is a private street, over which this authority has no jurisdiction. In terms of the effects on the public section of the highway at Buckland Lane I do not consider this development would constitute a severe impact and confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.

6.06 KCC Archaeology (comments received on application 16/505276)

The site of the application lies within the area of Little Buckland hamlet which includes a farm complex and the 14th century Little Buckland Farm Cottage. There are also indications of possible Roman activity in this area. There is potential for Roman or medieval remains to survive within the application site and as such I recommend the following condition is placed on any forthcoming consent.

7.0 BACKGROUND PAPERS AND PLANS

Application form
Planning, Design and Access Statement
Preliminary Ecological Appraisal
Bat Survey Report
Letter dated 22nd April 2016 addressing arboricultural matters

Drawing No. 16/1249/01 (erection of detached single storey dwelling)

8.0 APPRAISAL

Principle of development

Five year housing land supply

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

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

- 8.02 Furthermore, paragraph 49 of the NPPF is clear that relevant policies for the supply of housing *“should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”.*

- 8.03 The Council has undertaken a Strategic Housing Market Assessment (SHMA) which was commissioned jointly with its housing market area partners: Ashford and Tonbridge & Malling Borough Councils. A key purpose of the SHMA is to quantify how many new homes are needed in the borough for the 20 year period of the emerging Maidstone Borough Local Plan (2011 to 2031). The SHMA has been the subject of a number of iterations following the publication of updated population projections by the Office for National Statistics and household projections by the Department for Communities and Local Government. At the meeting of the Strategic Planning, Sustainability and Transport Committee on 9 June 2015, Councillors agreed an objectively assessed housing need figure of 18,560 dwellings for the period 2011 to 2031. This figure was adopted as the Local Plan housing target by Council at its meeting on 25 January 2016.

- 8.04 The Maidstone Borough Local Plan was submitted to the Secretary of State for examination on 20 May 2016, and the Plan allocates housing sites considered to be in the most appropriate locations for the borough to meet its objectively assessed needs. The Housing Topic Paper, which was submitted with the Local Plan, demonstrates that the Council has a five-year supply of deliverable housing sites in accordance with paragraph 47 of the NPPF. The independent examination into the Local Plan commenced on 4 October 2016, and the closing session for the hearings was held on 24 January 2017. The examination itself will close following further

public consultation on modifications to the Local Plan and receipt of the Inspector's final report. Adoption of the Plan is expected in summer 2017.

- 8.05 Housing land supply monitoring is undertaken at a base date of 1 April each year. The Council's five-year supply position includes dwellings completed since 1 April 2011, extant planning permissions, Local Plan allocations, and a windfall allowance from small sites (1-4 units). The methodology used is PPG-compliant in that the past under-supply of dwellings against objectively assessed housing need is delivered in future years; it applies a discount rate for the non-implementation of extant sites; and a 5% buffer is applied. The position is set out in full in the Housing Topic Paper, which demonstrates the Council has **5.12 years'** worth of deliverable housing sites at 1 April 2016 against its objectively assessed need of 18,560 dwellings for the Plan period.
- 8.06 The Inspector issued a report on his 'Interim Findings from the Examination of the Maidstone Borough Local Plan' on 22 December 2016 (examination document reference ED110). In addition to confirming that it is reasonable to apply a 5% buffer to the borough's five-year housing land supply in accordance with paragraph 47 of the NPPF, the Inspector is recommending two key changes to the Council's housing land supply position.
- 8.07 First, the Inspector did not consider that the 5% market signals uplift set out in the SHMA would have the desired effect of boosting housing supply, nor that it was justified, particularly given the overall increase in past building rates that is expected as a result of the Local Plan allocations. Consequently, the borough's objectively assessed housing need is proposed to be reduced by 900 units to 17,660 dwellings for the period 2011 to 2031.
- 8.08 Second, the Inspector recommends the use of a 'Maidstone hybrid' method for the calculation of the borough's five-year housing land supply, which would deliver past under-supply over the next 10 years (as opposed to the next 5 years as set out in the Housing Topic Paper). This would result in a smoother and more realistic rate of delivery of dwellings over the Local Plan period.
- 8.09 The Inspector's interim report proposes additional modifications relating to the deletion or amendment of allocated sites, or to the phasing of allocated sites and broad locations. The report does not identify a need for further housing site allocations. In advance of public consultation on the formal modifications to the Local Plan, the interim findings have been applied to the borough's 20-year and five-year housing land supply tables which were set out in the Housing Topic Paper. The updated tables (examination document reference ED116) reveal a strengthened five-year supply position as at 1 April 2016, from 5.12 years to 6.11 years. The figures are not definitive because of the need for consultation on modifications in respect of the reduced housing need and proposed amendments to specific allocated sites, but they reaffirm a robust five-year housing land supply position and justify the assumptions being made. A full five-year housing land supply update will be undertaken through the annual housing information audit to produce the 1 April 2017 position.

Policy background

- 8.10 The application site is outside the urban boundary for Maidstone and as such can be described as being within the countryside as set out in Policy ENV28 of the Local Plan *'The countryside is defined as all those parts of the plan area not within the development boundaries shown on the proposals map.'*

Policy ENV28 continues :

'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 operation 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.*

8.11 The provision of new housing within the countryside is not included within the policy.

8.12 Policy SP17 of the submitted emerging Local Plan allows for small-scale residential development necessary to :

- a) *Meet a proven essential need for a rural worker to live permanently at or near their place of work*
- b) *Meet a proven need for Gypsy and Traveller accommodation*
- c) *Meet local housing needs.*

8.13 Again the provision of a new dwelling such as that proposed does not meet these criteria.

8.14 The Proposed Main Modifications (PMM) to the emerging local plan are currently being consulted upon, these propose modifications to Policy SP17, removing reference to types of acceptable development and stating the following :

'Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.'

8.15 Policy DM4 of the submitted emerging local plan sets out :

'Exceptionally, the residential redevelopment of brownfield sites in the countryside which meet the above criteria and which are in close proximity to Maidstone urban area.....will be permitted provided the redevelopment will also result in a significant environmental improvement and the site, or will be made demonstrably accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.'

8.16 The PMM again seeks to modify Policy DM4, becoming Policy DM5 the policy would read :

'Exceptionally, the residential development of brownfield sites in the countryside which are not residential gardens, which meet the above criteria will be permitted provided the redevelopment will also result in a significant environmental improvement and the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village.'

Sustainable development

- 8.17 The 'golden thread' of the NPPF relates to sustainable development, defined by its economic, social and environmental role. Paragraph 55 of the NPPF sets out that *'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain vitality of rural communities.'*
- 8.18 The application site is very much characterised as 'rural fringe', having a semi-rural characteristic due to its inherent connections with the urban area but defined by much more sporadic development than the suburban environment to the west of the railway line within the urban boundary. Described by previous Inspectors as a *'small enclave of residential development, having a distinctive semi-rural character'*, these characteristics remain over 30 years after they were originally written.
- 8.19 The site does benefit from sustainable transport links with the urban area and thus there would be little to distinguish between the characteristics of the use of this site compared to those within the urban boundary to the west. The site however does not provide significant economic benefit by the provision of one dwelling and the environmental benefit has not been demonstrated through the application. Although the application states that the use of the land for the parking of a contractor's lorry would no longer take place, this use has not had any noticeable impact on the land. Whilst the land can loosely be described as 'brownfield' land, there is little to distinguish it from greenfield land with no buildings, hardstanding, or tracks on the land or signs on the site. A flat-bed lorry has been brought back onto the site since the earlier refusal; however the siting of a vehicle in itself has limited impact. Concerns have been raised regarding future uses of the site; however any use other than the parking of a vehicle on the site would require planning permission and would be considered on its own merits. This use also solely relates to the front part of the site. In granting the scheme the majority of the trees and vegetation would be removed and although the application does now show some indicate replacement planting and/or a landscaping scheme could be conditioned this does not override the concerns regarding the impact on the character of the area a residential use on this site would have. The development would as such have a positive environmental improvement, not supporting the role of the sites sustainable credentials and Policy DM4 of the emerging local plan.
- 8.20 The Council can demonstrate a 5-year supply and in the absence of overriding material considerations it is considered that the principle of the development of the site should be resisted. Other material considerations are discussed in further detail below.

Visual amenity

- 8.21 As described above the application site is located within an informal 'cul de sac' of dwellings forming a residential enclave on the periphery of the urban area of Maidstone. As can be seen on the site location plan the characteristics of this area (sporadic rural development) are wholly different to the area to the west of the railway bridge where development is suburban in nature and of a higher density.
- 8.22 Four of the seven existing local dwellings form part of the historic farmstead, notable by at least two of the buildings being converted agricultural buildings and the heritage assets of Little Buckland Farm and Little Buckland Farm Cottage (both listed buildings). The more recent development to the east was allowed for three new dwellings, each located within large spacious plots.

- 8.23 Recognised in the 1982 dismissed appeal (82/1358), the development of the application site would result in harm to the rural amenity and appearance of the value of the landscape of the area surrounding the town. Significant weight was given by the Inspector at that time to the cumulative impact allowing development on this site would have to this enclave and the difficulty that would result in resisting development on further land in the vicinity.
- 8.24 Although policy has changed since the earlier appeals, the characteristics of this enclave have been maintained. Allowing development on this site would wholly alter the characteristics and appearance of this area due to the proportions of the site in comparison to the neighbouring sites. The long, thin shape of the site would result in contrast and be at odds with the surrounding character of development. The site would consequently appear as cramped and out of character and harmful to this semi-rural locality.
- 8.25 The design of the proposed dwelling is not in itself considered unacceptable, the appearance of the building would be simple and low key. The dwelling would be sited at the front of the site and be a further urbanising feature, bringing built form much further forward towards Buckland Lane to the south. There would be limited possibility for landscaping to mitigate the harm when viewed from the road.

Impact on setting of Listed Building

- 8.26 The site lies within a small residential enclave separated from nearby development by the railway line. It includes three listed buildings – Little Buckland Farm, a converted barn and, immediately adjacent to the application site, Little Buckland Farm Cottage, a Grade II* house dating from the 14th Century.
- 8.27 The proposal is to erect a dwelling on this long, narrow site which contains a number of trees (and some which have recently been felled). The arboricultural report accompanying the application states that these are in poor health and not suitable for retention.
- 8.28 The site is currently well-screened from Little Buckland Farm Cottage, both by trees within the application site and planting within the grounds of the listed building. Notwithstanding the potential loss of trees within the application site, it is considered that the proposed development would remain well-screened from Little Buckland Farm Cottage. In design terms it is considered the proposal to be acceptable, the house being in a vernacular style with something of the appearance of a farm building; although of two storeys, the house would be dug into the rising land on the application site, thus reducing its scale and visual impact. It is considered that it is unlikely to cause harm to the setting of Little Buckland Farm Cottage or to those of the other nearby listed buildings.

Impact on residential amenity (existing and future occupiers)

Existing occupiers

- 8.29 There are residential dwellings located to the east of the application site (Little Buckland Farm Cottage) and to the north (The Mews). Other neighbouring dwellings are considered to be a significant distance from the application site such that they would be unaffected by the proposed development.
- 8.30 The Mews is separated from the application site by the access road and it is considered that the single storey nature of the proposed development (both the

garage and dwelling) would mitigate any harm to the neighbouring dwelling to the north.

- 8.31 Little Buckland Farm Cottage to the east is situated in a large plot with the dwelling itself situated to the easterly part of the site. There are existing trees and landscaping along the eastern boundary separating the site, although some of this would be removed, that on the neighbouring site would remain. Due to the screening, single storey nature of the dwelling and the distance from the boundary, the neighbouring plot size and the position of the dwelling itself it is not considered that any significant harm would result to the amenity of the neighbouring dwelling.

Future occupiers

- 8.32 The proposed dwelling would benefit from an acceptable level of internal amenity.
- 8.33 The main concerns regarding the amenity of the future occupiers would be the potential noise and disturbance from the adjacent railway to the east of the site. The application has not been accompanied by a noise report to demonstrate acceptable amenity for the future occupiers, however the Environmental Health Officer is satisfied that this matter could be dealt with my condition.

Trees

- 8.22 The application site contains a number of relatively mature trees, predominantly sited along the eastern and western boundaries. These are described in the submitted tree report as eleven Lombardy Poplars, one White Poplar and One Sycamore, six poplar trees referred to in the earlier application as to be removed would now be retained, these trees are located to the south of the site.
- 8.23 The rationale for the felling of the existing trees relates to the poor condition of the trees. The tree officer has been consulted on the application and verbal discussions on the earlier application followed with the conclusion that the trees are unlikely to be worthy of retention and therefore although their loss is unfortunate replacement planting could mitigate the loss.
- 8.24 The landscape officer comments on this current application highlights the shortfall in the submitted arboricultural supporting information. This viewpoint is concurred with, however the same limited information was submitted and considered with the earlier application and the conclusion was reached that replacement planting could mitigate the loss of the existing trees. As such it would be unreasonable for the same conclusion not to be reached on the current application.
- 8.25 Subject to a robust landscaping scheme including replacement tree planting the application is considered acceptable in this respect.

Ecology

- 8.26 The information submitted includes a bat survey and a preliminary ecological survey. Both surveys appear to have been carried out by competent individuals and the clear methodology, findings and conclusions are set out in both reports. The bat survey concludes that there are no bats roosting in the trees on the site (which are proposed to be removed), bats were observed passing through the site during the survey. Any impact on bats is concluded that it could be mitigated by external lighting being limited within the site. Enhancements proposals are considered in the report. The ecological survey assesses the impact on protected species, the

appraisal includes a desk based and on the ground survey. The report concludes that there is potential for foraging hedgehogs and evidence of rabbits within the site, however no protected species were identified within the site and the site conditions did not raise issues to suggest that there would be undue possibility of protected species.

- 8.27 The findings of both reports would appear to be reasonable and it is considered that subject to mitigation and enhancement any matters relating to ecology could be dealt with by conditions should the scheme be acceptable in all other respects.

Highways and Parking

- 8.28 The proposed provision of one additional dwelling would not have any significant impact on highways, especially due to the lawful use of the site for the parking of a contractors lorry. The provision of one dwelling could amount to a similar vehicle movements.
- 8.29 The proposed parking provision (two tandem spaces on a hardstanding drive) would meet general standards and provide a suitable provision for the two-bedroomed dwelling proposed.

9.0 CONCLUSION

- 9.01 The development of the site would be uncharacteristic within this semi-rural location and would be at odds with existing development and would detract from the semi-rural characteristics of the site and the surrounding area. The form of development would appear as cramped with the proposed garage dominating the site and detracting from the dwelling itself which has been suitably designed.
- 9.02 The proposed dwelling would not harm the setting of surrounding listed buildings but would not result in any improvement.
- 9.03 The existing authorised use for the parking of a contractor's lorry is a low-key use and the proposed development of a new dwelling would not result in significant environmental improvement to justify the development of the site outside the urban settlement boundary.
- 9.04 The benefits of one additional dwelling would not outweigh the harm associated with developing the site and development of the site for residential would not accord with current policy and guidance and is recommended for refusal.

10.0 RECOMMENDATION –REFUSE PLANNING PERMISSION for the following reason

The proposed development would be detrimental to the character and visual amenities of the area representing an undesirable consolidation of, and extension to an area of built development in the rural area outside the defined urban boundary and due to the cramped nature of development in comparison to the surrounding properties would be out of character with the character and appearance of this small rural enclave located close to the urban area of Maidstone, contrary to the National Planning Policy Framework 2012, National Planning Practice Guidance 2012, Policy ENV6, ENV28 of the Maidstone Borough Wide Local Plan 2000 and Policies SP17, DM1, DM3, DM4 and DM34 of the Maidstone Borough Local Plan Publication May 2016 (Submitted version)

INFORMATIVE

The plans taken into consideration in reaching the decision to refuse planning permission are:

Application form

Planning, Design and Access Statement

Preliminary Ecological Appraisal

Bat Survey Report

Letter dated 22nd April 2016 addressing arboricultural matters

Drawing No. 16/1249/01 (erection of detached single storey dwelling)

Case Officer: Rachael Elliott

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

REPORT SUMMARY

REFERENCE NO - 17/500175/FULL			
APPLICATION PROPOSAL Retrospective temporary security fencing			
ADDRESS Land Adjacent South Cottage High Street Staplehurst Kent TN12 0AD			
RECOMMENDATION – GRANT subject to the planning conditions set out in Section 8.0 of the report			
SUMMARY OF REASONS FOR RECOMMENDATION			
<p>-The temporary security fencing results in less than substantial harm to the setting of local heritage assets, such that for a temporary period of one year to secure the site, it is considered that the harm would be outweighed by the benefit.</p> <p>-The retention of the temporary security fencing for a period of one year would not cause significant harm to the Conservation Area and the street scene, such that the application should be refused.</p> <p>-The temporary security fencing would result in a reversible impact on the character and appearance of the street scene, Conservation Area and setting of the Listed Buildings such that no long-term harm would result.</p>			
REASON FOR REFERRAL TO COMMITTEE Staplehurst Parish Council wish to see the application refused.			
WARD Staplehurst	PARISH/TOWN COUNCIL Staplehurst	APPLICANT Mr Nigel Senington AGENT	
DECISION DUE DATE 24/04/17	PUBLICITY EXPIRY DATE 31/03/17	OFFICER SITE VISIT DATE 3/3/17	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
15/506419/FULL	Erection of a pair of semi-detached houses	Refused Dismissed at appeal	29/10/15
MA/14/0791	Application for the erection of 2 two-bedroom houses.	Refused	29/8/14
MA/01/0293	Application for the erection of 1 No. detached dwelling with integral double garage.	Refused Dismissed at appeal	9/5/01
MA/01/0350	Application for the erection of 2 no. detached dwellings with integral double garage.	Refused Dismissed at appeal	30/4/01

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site relates to a parcel of land (approximately 20m x 27m) on the east side of the High Street in the centre of Staplehurst. The site does not have vehicular access onto the main road, which is set at a higher level, and there is pavement and grassed bank between.
- 1.02 There are Grade II listed houses immediately to the north and south and mature trees within the grounds of Loddenden Manor, a Grade II* listed building to the east. The site falls within the Staplehurst Conservation Area.
- 1.03 The site has been cleared of all trees and shrubs and so comprises open grassland. On the front boundary heras fencing has been erected (the subject of this application). The remaining three boundaries of the site are all enclosed with close board timber fencing.

2.0 PROPOSAL

- 2.01 The application seeks retrospective planning permission for the erection of 2m high metal mesh security fencing along the front (western) boundary.
- 2.02 6 panels of fencing have been erected along the western boundary which each measure 3.5m in width and there are also panels on the return, part along the northern and southern boundaries.
- 2.03 Some of the uprights of the fencing panels have been sprayed pink in colour.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough-Wide Local Plan 2000: Policy ENV6
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Draft Maidstone Local Plan (2011-2031): Policies SP10, DM1 and DM3
Draft Maidstone Local Plan (2011-2031) (Proposed Main Modifications) : Policies SP10, SP18, DM1, DM3 and DM4
Staplehurst Neighbourhood Plan (2016-2031)

4.0 LOCAL REPRESENTATIONS

4.01 Parish Council

The fencing is detrimental to the conservation area and to an adjacent listed building; the fencing had been erected without permission; the application did not state a reason for the installation of the fencing or for the previous clearance of the site; the site plan was incorrect in its illustration of the location of the fencing. Councillors stated they wished to see the water tank moved to a less obtrusive position and a replacement hedge or a fence of more traditional design

Staplehurst Parish Council further considers that the fence has a seriously adverse effect on the street scene in the Staplehurst Conservation Area and on the setting of listed buildings, the importance of which was emphasised by the Planning Inspector's report on the appeal against refusal of planning permission for application 15/506419/FULL and by the case officer's report on application 15/507585/FULL. We

therefore recommend that the application be REFUSED and that the temporary security fence be replaced as soon as possible by a boundary treatment which is in keeping with the Conservation Area, with the listed buildings adjoining the site and by the existing boundary fences on the other sides of the site.

4.02 Adjoining neighbours were notified of the application. A site notice was also put up at the site.

6 letters of objections have been received in response to the consultation which are summarised as follows:

- Fencing is unsuitable for the area
- Optimistic that the fencing is temporary
- Means of enclosure should be more in keeping with the Conservation Area
- Site location plan is incorrect
- Applications for the site have been previously refused
- Blight on the village
- Unnecessary
- Want trees and hedging to be re-instated
- Listed building consent required
- Conservation Area consent required
- Breaches of planning, removal of original fence, new fence etc.

5.0 **CONSULTATIONS**

5.01 **Conservation Officer** : No objections

6.0 **APPRAISAL**

Main Issues

6.01 It is considered that the key issues are :

- Permitted development and consents
- Impact on Conservation Area, setting of Listed Buildings and street scene

Permitted development and consents

6.02 The Town and Country Planning (General Permitted Development) (England) Order 2015 allows under Part 2 Class A for :

'The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.'

A.1 sets out the conditions, these include :

- (a) *the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after carrying out the development, exceed (ii) in any other case, 1 metre above ground level.*
- (c) *the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed whichever is the greater ; or*

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.'

- 6.03 The properties to the north and south of the application site are both Grade II Listed Buildings. The application site is separated from both these dwellings by close boarded fencing and is now in separate ownership.
- 6.04 To the north, North and South Cottages were first listed in 1967, known at the time as Loddenden Cottages, 1 and 2 Little Loddenden to the south were listed at a similar time. Historic maps appear to show the application site formerly being part of the curtilage of South Cottage. Earlier Conservation Officer comments also suggest that the application site in conjunction with North and South Cottages once formed part of the Grade II* Listed Loddenden Manor.
- 6.05 There is no formal definition of Listed building curtilage, however Historic England advice suggests that where a site has been sold away after the date of listing of the main house, it is likely that it would still be considered to be treated as part of the listed building at the date of listed and therefore form part of the curtilage.
- 6.06 The date of transfer of the land to separate ownership is unknown, however the likelihood is that it was sold off or became separated later than the listing date of South Cottage in 1967 and as such it is considered that the application site should be considered as part of the curtilage of the Listed Building and as such point (d) above applies and planning permission is required for gates, fencing, walls or other means of enclosure of the land.
- 6.07 Representation refers to the need for Listed Building Consent and Conservation Area Consent. An application is not required in either respect due to the temporary fencing not being attached to any Listed Building and the requirement for Conservation Area Consent as a separate application has been abolished.
- 6.08 Demolition of any wall, gate or fence which is over 1 metre high where abutting a highway, or over 2 metres high elsewhere in a Conservation Area can require planning permission for demolition. Neighbour representation has indicated that the previous means of enclosure was by a 6ft close boarded fence and planting. Photographs of the site prior to removal of the earlier means of enclosure indicate that the fencing was sited behind the planting and thus the fencing in this case would not have been considered as abutting the highway and it is not considered that consent for the removal of the original fencing would have been necessary.
- 6.09 Consent to remove trees in a Conservation Area is required and the applicant did apply for consent under application reference TA/0050/14 to fell 5 cedars, this raised no objection. The conifers along the front boundary were not explicitly part of the notification but it has not been considered expedient to enforce their removal as the trees were not of a quality worthy of retention. The applicant has since planted some replacement trees on the site.
- 6.10 The removal of the previous boundary treatment in itself would not have required consent and as such there is no requirement or action that could be taken to re-instate boundary treatment to the front. Planning permission is however required for any new boundary treatment as discussed above.

Impact on Conservation Area, setting of Listed Buildings and street scene

Policy background

- 6.11 Paragraph 133 of the NPPF sets out that *'Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.'* It is not considered that application will lead to substantial harm to a designated heritage asset.
- 6.12 Paragraph 134 continues by stating *'Where a development proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.'*
- 6.13 Policy ENV6 of the adopted local plan requires landscape scheme in appropriate cases which includes details of boundary treatment. The policy seeks to incorporate the retention of existing, tree and hedgerows that contribute to the landscape character or quality of the area. Schemes should provide a scheme of new planting of trees, hedgerows or shrubs as appropriate.
- 6.14 Policy DM1 includes criteria to respond positively to and where possible enhance, the local, natural or historic character of the area and provide a high quality design which responds to areas of heritage townscape.
- 6.15 Policy DM3 of the emerging local plan (to be separate policies SP18 and DM4 in the Proposed Main Modifications (PMM)) sets out that proposals should avoid damage to and inappropriate development considered likely to have significant adverse effects on *'Cultural heritage assets protected by international, national or local designation and other non-designated heritage assets recognised for their archaeological, architectural or historic significance, or their setting.'*
- 6.16 Policy SP18 of the PMM reads :
- To ensure their continued contribution to the quality of life in Maidstone borough, the characteristics, distinctiveness, diversity and quality of heritage assets will be protected and, where possible, enhanced. This will be achieved by the Council encouraging and supporting measures that secure the sensitive restoration, reuse, enjoyment, conservation and/or enhancement of heritage assets, in particular designated assets identified as being at risk, to include;*
- 1) collaboration with developers, landowners, parish councils, groups preparing neighbourhood plans and heritage bodies on specific heritage initiatives including bids for funding;*
 - 2) through the development management process, securing the sensitive management and design of development which impacts on heritage assets and their settings;*
 - 3) through the incorporation of positive heritage policies in neighbourhood plans which are based on analysis of locally important and distinctive heritage; and*
 - 4) ensuring relevant heritage considerations are a key aspect of site masterplans prepared in support of development allocations and broad locations identified in the Local Plan.*
- 6.17 Policy DM4 of the PMM relating to development affecting designated or non-designated heritage assets reads :

1. Applicants will be expected to ensure that new development affecting a heritage asset incorporates measures to conserve , and where possible enhance, the significance of the heritage asset and, where appropriate, its setting;
2. Where appropriate, development proposals will be expected to respond to the value of the historic environment by the means of a proportionate Heritage Assessment which assesses and takes full account of;
 - i. any heritage assets, and their settings, which could reasonably be impacted by the proposals;
 - ii. the significance of the assets; and
 - iii. the scale of the impact of development on the identified significance.
3. Where development is proposed for a site which includes or has the potential to include heritage assets with archaeological interest, applicants must submit an appropriate desk-based assessment and, where necessary, a field evaluation.
4. The Council will apply the relevant tests and assessment factors specified in the Framework when determining applications for development which would result in the loss of, or harm to, the significance of a heritage asset and/or its setting.
5. In the circumstances where the loss of a heritage asset is robustly justified, developers must make the information about the asset and its significance available for incorporation into the Historic Environment Record .

6.18 Policy PW4 of the Staplehurst Neighbourhood Plan sets out :

'New developments within Staplehurst must have regard to the historic environment and the heritage that is an integral part of the landscape.'

Appraisal

- 6.19 The application is retrospective and the temporary fencing can be viewed on site. The fencing erected is 2m high metal mesh security fencing, akin to that often used to enclose building sites. Areas have been sprayed pink in colour which attracts slightly more attention to the fencing than if it had not been sprayed.
- 6.20 No heritage statement or other assessment of the impact on Heritage Assets accompanies the application, however the need for such a requirement has to be relative to the nature of the proposal and in this case it is considered that the scheme can be assessed without an independent survey.
- 6.21 It is acknowledged that the security fencing is in contrast to the previous means of enclosure (namely landscaping) however as discussed earlier in this report the previous boundary treatment was lawfully removed and cannot be insisted upon to be re-instated.
- 6.22 It is reasonable for the applicant to want to enclose and secure the site to ensure that the risk of trespassing onto the site is minimised. The land is in private and separate ownership from neighbouring sites. It is currently fully enclosed by close boarded fencing along the northern, southern and eastern boundaries.
- 6.23 The Conservation Officer is satisfied that the visual impact of the fencing is minimal and although the pink paint does draw the eye to the fencing, these areas could be stripped and the paint colour removed (this could be subject to condition). The security fencing is less intrusive than other options such as close boarded fencing which would incorporate solid timber panels and would be more visually prominent.
- 6.24 The temporary fencing would be easily removed from the site, it is not fixed to the ground and in terms of the short term harm that would result is not considered to be

substantial and the less than substantial harm that may result would be reversible and would not be a long-term solution.

- 6.25 The security fencing erected on the site is acknowledged not to be the ideal choice of long-term boundary treatment for the site and if erected permanently would be unacceptable. The application however seeks temporary consent for the fencing and although no period is specified it is considered that a 12month period is considered reasonable. This would allow the applicant to consider his options with regard to the site (which has been subject to a number of refused application and dismissed appeals), secure the site with minimal long-term impact and enable an application for a permanent alternative means of enclosure to be submitted.
- 6.26 It is considered that the security fencing for a temporary period is acceptable and in accordance with current policy and guidance which seeks to protect heritage assets and visual amenity. Subject to conditions and an informative the application is recommended for approval.

Other matters

- 6.27 The application is not considered to have a significant impact on any other material planning considerations and is acceptable in all other respects.

7.0 CONCLUSION

- 7.01 The temporary security fencing results in less than substantial harm to the setting of local heritage assets, such that for a temporary period of one year to secure the site, it is considered that the harm would be outweighed by the benefit.
- 7.02 The retention of the temporary securing fencing for a period of one year would not cause significant harm to the Conservation Area and the street scene, such that the application should be refused.
- 7.03 The temporary security fencing would result in a reversible impact on the character and appearance of the street scene, Conservation Area and setting of the Listed Buildings such that no long-term harm would result.

8.0 RECOMMENDATION

- 8.01 GRANT Subject to the following conditions :

- (1) The development hereby permitted shall be maintained in accordance with the following approved plans:

Block Plan 1:500 (including the one panel return along the southern and northern boundaries)
Plan showing panel detail received 27 February 2017

Reason: To clarify which plans have been approved.

- (2) The security fencing hereby permitted and as shown on the submitted block plan and including the panel returns to the northern and southern boundaries shall be removed from the site within 12 months of the expiry of the temporary consent.

Reason : In the interests of the visual amenity of the street scene and the setting of local Heritage Assets and granting a permanent consent for the means of enclosure would not be considered acceptable.

- (3) Within one month of the date of this decision the pink paint on the uprights of the security fencing panels hereby approved shall be removed and the fencing returned to its original metal colour/finish.

Reason : In the interests of the visual amenity of the street scene and the setting of local Heritage Assets.

INFORMATIVES

- (1) The applicant is advised that permanent consent for the security fencing would not be forthcoming should a future application be submitted and that any future application for a permanent means of enclosure to the western boundary should propose a scheme that has been sensitively designed taking into consideration the setting of local heritage assets and should seek to preserve or enhance the character of the local area.

The applicant is advised to seek pre-application advice on any scheme prior to submission of a formal planning application.

Case Officer: Rachael Elliott

REPORT SUMMARY

REFERENCE NO - 17/501210/FULL		
APPLICATION PROPOSAL Construction of an external passenger lift shaft (3 stops), removal of part of a flat roof and existing toilet and installation of new accessible toilet		
ADDRESS Maidstone Museum, St Faith's Street, Maidstone		
RECOMMENDATION - GRANT SUBJECT TO CONDITIONS		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is considered to preserve the historical integrity of the grade II* listed building and the character and appearance of the Conservation Area and would comply with the Development Plan. There are no overriding material considerations to indicate a refusal.		
REASON FOR REFERRAL TO COMMITTEE The council is the applicant.		
WARD High Street Ward	PARISH/TOWN COUNCIL N/A	APPLICANT Maidstone Borough Council
DECISION DUE DATE 11/05/17	PUBLICITY EXPIRY DATE 21/04/17	OFFICER SITE VISIT DATE 28/03/17
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): 16/508667 & 16/508668 - external passenger lift shaft – withdrawn		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 This application relates to Maidstone Museum, which is a grade II* listed building, lying within Maidstone Town Centre Conservation Area. The building originally dates from the mediaeval period and has been altered and extended many times throughout its life.

2.0 PROPOSAL

- 2.01 Planning Permission is sought for the installation of an external passenger lift shaft. The lift is required to provide access to people with reduced mobility to the central and north part of the upper floor of the museum. A new accessible toilet will also be installed opposite the lift upon the ground floor.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Wide Local Plan 2000: none specific
Submission Version of the Maidstone Borough Wide Local Plan (2016): DM1, DM3

4.0 LOCAL REPRESENTATIONS

None received to date.

5.0 CONSULTATIONS

- 5.01 Historic England: Do not wish to comment.
- 5.02 Conservation Officer: No objection to the listed building consent application.
- 5.03 KCC Archaeological Officer: no response.

6.0 APPRAISAL

- 6.01 The key issue relates to the impact upon the character, appearance and historical integrity of the grade II* listed building.
- 6.02 This application is a revised scheme, following the withdrawal of a previous scheme for an external lift shaft. Initially, the original proposal sought a bulkier design, which would have had an awkward relationship with the existing building and chimney and which was not considered sympathetically related to the host building. This scheme follows further informal advice and seeks a much more lightweight design, being of a self-supporting glazed nature. The proposal has limited intervention with the host building and is of a reduced scale which would appear subordinate to the existing building and would avoid the awkward relationship with the existing chimney, which is an important visual feature, and with the differing roofs. The lift shaft would be constructed of powder coated steel, coloured light grey. This material is considered suitable for the design of the structure and its colouring would be unobtrusive and in keeping with the steel used upon the existing modern extension to the museum.
- 6.03 The proposal involves cutting back an existing flat roofed extension, however, this is a modern addition, which has no positive impact upon the building and therefore its reduced scale would not result in harm.
- 6.04 The proposal does not appear to involve any significant loss of important historic fabric. Existing Windows and a salvaged Tudor fireplace would be retained and would be visible from the lift shaft and lobby. The opening is to be formed into the existing wall through an area of brickwork and does not affect any important timber framing. Although the wall falls within the oldest part of the building, it is not considered to be original mediaeval fabric which would be affected, as it comprises brickwork.
- 6.05 Historic England have not objected to the application, and neither has the conservation officer. It is considered that the solution now proposed, which would aid the viability of the building by providing a more accessible environment to all, is a suitable solution offering a lightweight, modern approach, which is considered

appropriate to its context. It is concluded that this scheme would preserve the character, appearance and historical integrity of the grade II* listed building.

- 6.06 It is further concluded that the development would preserve the character and appearance of the Conservation Area and the visual amenity of the streetscene.

Other Matters

- 6.07 There are no significant residential amenity, ecological or parking issues. Due to the siting, design and nature of the proposal, there are not considered to be any significant archaeological issues.

7.0 CONCLUSION

- 7.01 The proposal is considered to preserve the character and appearance of the grade II* listed building and the conservation area and to comply with the Development Plan. 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 3709/AL – P01, 3709/AL – P05, 3709/AL – P31, 3709/AL-P30, 3709/AL – P331 and 3709/AL – P330 received on 03/03/17;

Reason: To ensure the quality of the development is maintained and to preserve the setting, character and appearance of the grade II* listed building.

Case Officer: Louise Welsford

REPORT SUMMARY

REFERENCE NO - 17/501211/LBC		
APPLICATION PROPOSAL Listed Building Consent for the construction of an external passenger lift shaft (3 stops), removal of part of a flat roof and existing toilet and installation of new accessible toilet		
ADDRESS Maidstone Museum, St Faith's Street, Maidstone		
RECOMMENDATION - GRANT SUBJECT TO CONDITIONS		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is considered to preserve the historical integrity of the grade II* listed building and there are no overriding material considerations to indicate a refusal.		
REASON FOR REFERRAL TO COMMITTEE The council is the applicant.		
WARD High Street Ward	PARISH/TOWN COUNCIL N/A	APPLICANT Maidstone Borough Council
DECISION DUE DATE 11/05/17	PUBLICITY EXPIRY DATE 21/04/17	OFFICER SITE VISIT DATE 28/03/17
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): 16/508667 & 16/508668 - external passenger lift shaft – withdrawn		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 This application relates to Maidstone Museum, which is a grade II* listed building, lying within Maidstone Town Centre Conservation Area. The building originally dates from the mediaeval period and has been altered and extended many times throughout its life.

2.0 PROPOSAL

- 2.01 Listed Building Consent is sought for the installation of an external passenger lift shaft. The lift is required to provide access to people with reduced mobility to the central and north part of the upper floor of the museum. A new accessible toilet will also be installed opposite the lift upon the ground floor.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Wide Local Plan 2000: none specific
Submission Version of the Maidstone Borough Wide Local Plan (2016): DM3

4.0 LOCAL REPRESENTATIONS

None received to date.

5.0 CONSULTATIONS

- 5.01 Historic England: Do not wish to comment.
- 5.02 Conservation Officer: No objection.
- 5.03 Six National Amenity Societies: No response.

6.0 APPRAISAL

- 6.01 The key issue relates to the impact upon the character, appearance and historical integrity of the grade II* listed building.
- 6.02 This application is a revised scheme, following the withdrawal of a previous scheme for an external lift shaft. Initially, the original proposal sought a bulkier design, which would have had an awkward relationship with the existing building and chimney and which was not considered sympathetically related to the host building. This scheme follows further informal advice and seeks a much more lightweight design, being of a self-supporting glazed nature. The proposal has limited intervention with the host building and is of a reduced scale which would appear subordinate to the existing building and would avoid the awkward relationship with the existing chimney, which is an important visual feature, and with the differing roofs. The lift shaft would be constructed of powder coated steel, coloured light grey. This material is considered suitable for the design of the structure and its colouring would be unobtrusive and in keeping with the steel used upon the existing modern extension to the museum.
- 6.03 The proposal involves cutting back an existing flat roofed extension, however, this is a modern addition, which has no positive impact upon the building and therefore its reduced scale would not result in harm.
- 6.04 The proposal does not appear to involve any significant loss of important historic fabric. Existing Windows and a salvaged Tudor fireplace would be retained and would be visible from the lift shaft and lobby. The opening is to be formed into the existing wall through an area of brickwork and does not affect any important timber framing. Although the wall falls within the oldest part of the building, it is not considered to be original mediaeval fabric which would be affected, as it comprises brickwork.
- 6.05 Historic England have not objected to the application, and neither has the conservation officer. It is considered that the solution now proposed, which would aid the viability of the building by providing a more accessible environment to all, is a suitable solution offering a lightweight, modern approach, which is considered

appropriate to its context. It is concluded that this scheme would preserve the character, appearance and historical integrity of the grade II* listed building.

7.0 CONCLUSION

7.01 The proposal is considered to preserve the character and appearance of the grade II* listed building and to comply with the Development Plan. 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 works to which this consent relates must be begun before the expiration of three years from the date of this consent;

Reason: In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

(2) The works hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers 3709/AL – P01, 3709/AL – P05, 3709/AL – P31, 3709/AL-P30, 3709/AL – P331 and 3709/AL – P330 received on 03/03/17;

Reason: To ensure the quality of the development is maintained and to preserve the setting, character and appearance of the grade II* listed building.

Case Officer: Louise Welsford

REPORT SUMMARY

REFERENCE NO - 17/501555/LBC		
APPLICATION PROPOSAL Listed Building Consent for the installation of a platform lift (2 stops) and an accessible toilet in lieu of existing toilets. Opening of a door for the lift access through an existing brick wall.		
ADDRESS Maidstone Museum, St Faith's Street, Maidstone		
RECOMMENDATION - GRANT SUBJECT TO CONDITIONS		
SUMMARY OF REASONS FOR RECOMMENDATION The proposal is considered to preserve the historical integrity of the grade II* listed building and there are no overriding material considerations to indicate a refusal.		
REASON FOR REFERRAL TO COMMITTEE The council is the applicant.		
WARD High Street Ward	PARISH/TOWN COUNCIL N/A	APPLICANT Maidstone Borough Council
DECISION DUE DATE 15/05/17	PUBLICITY EXPIRY DATE 21/04/17	OFFICER SITE VISIT DATE 28/03/17
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites): 16/508667 & 16/508668 - external passenger lift shaft – withdrawn		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 This application relates to Maidstone Museum, which is a grade II* listed building, lying within Maidstone Town Centre Conservation Area. The building originally dates from the mediaeval period and has been altered and extended many times throughout its life.

2.0 PROPOSAL

- 2.01 Listed Building Consent is sought for the installation of a platform lift. The lift is required to provide access to people with reduced mobility to the central and north part of the upper floor of the museum. A new accessible toilet will also be installed opposite the lift upon the ground floor. This scheme involves an internal lift shaft, being sited in an existing flat roofed area.

3.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Wide Local Plan 2000: none specific
Submission Version of the Maidstone Borough Wide Local Plan (2016): DM3

4.0 LOCAL REPRESENTATIONS

None received to date.

5.0 CONSULTATIONS

- 5.01 Historic England: No response.
- 5.02 Conservation Officer: No objection.
- 5.03 Six National Amenity Societies: No response.

6.0 APPRAISAL

- 6.01 The key issue relates to the impact upon the character, appearance and historical integrity of the grade II* listed building.
- 6.02 This application is a revised scheme, following the withdrawal of a previous scheme for an external lift shaft. Initially, the original proposal sought a bulkier design, which would have had an awkward relationship with the existing building and chimney and which was not considered sympathetically related to the host building. This scheme follows further informal advice and seeks a much more lightweight design, being of a self-supporting glazed nature. The proposal has limited intervention with the host building and is of a reduced scale which would appear subordinate to the existing building and would avoid the awkward relationship with the existing chimney, which is an important visual feature, and with the differing roofs. The lift shaft would be constructed of powder coated steel, coloured light grey. This material is considered suitable for the design of the structure and its colouring would be unobtrusive and in keeping with the steel used upon the existing modern extension to the museum.
- 6.03 The proposal involves works within a modern addition, which has no positive impact upon the building and therefore its reduced scale and siting would not result in harm.
- 6.04 The proposal does not appear to involve any significant loss of important historic fabric. Existing Windows and a salvaged Tudor fireplace would be retained. The opening is to be formed into the existing wall through an area of brickwork and does not affect any important timber framing. Although the wall falls within the oldest part of the building, it is not considered to be original mediaeval fabric which would be affected, as it comprises brickwork.
- 6.05 Historic England have not objected to the application, and neither has the conservation officer. It is considered that this solution, which would aid the viability of the building by providing a more accessible environment to all, is a suitable solution offering a lightweight, modern approach, which is considered appropriate to its

context. It is concluded that this scheme would preserve the character, appearance and historical integrity of the grade II* listed building.

7.0 CONCLUSION

7.01 The proposal is considered to preserve the character and appearance of the grade II* listed building and to comply with the Development Plan. 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 works to which this consent relates must be begun before the expiration of three years from the date of this consent;

Reason: In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) The works hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers 3709/AL – P01, 3709/AL – P05, 3709/AL – P20 and 3709/AL-P320 received on 20/03/17;

Reason: To ensure the quality of the development is maintained and to preserve the setting, character and appearance of the grade II* listed building.

Case Officer: Louise Welsford

Agenda Item 31

THE MAIDSTONE BOROUGH COUNCIL **PLANNING COMMITTEE – 25th May 2017**

APPEAL DECISIONS:

- 1. 16/504641** Outline application for erection of two detached single storey dwellings with associated parking with access sought at this stage and all other matters reserved for future consideration; as shown on drawing no. PP/1; received 31.05.2016 and PP/2A; received 15.06.2016.

APPEAL: Dismissed

Land At Abbots Court Farm, The Street
Bredhurst

(Delegated)

- 2. 16/504798** The construction of six detached dwellings and associated parking, access and landscape works alongside the conversion of the existing barn to provide a community use on the land at Forge Lane.

APPEAL: Allowed

Land At Forge Lane, Bredhurst, Kent

(Committee)

- 3. 16/507247** Outline application for the construction of two 4/5 bedroom properties together with realignment of the access (Access, Layout and Scale being sought).

APPEAL: Dismissed

White Lodge, Dean Street, East Farleigh
Kent, ME15 0PT

(Delegated)

- 4. 16/505685** Erection of a 2 bedroom bungalow (revised scheme to refused application 16/501013/FULL).

APPEAL: Dismissed

1 Caernarvon Drive, Tovil, Kent, ME15 6FJ

(Delegated)
