

# PLANNING COMMITTEE MEETING

Date: Thursday 23 January 2020  
Time: 6.00 p.m.  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Adkinson, Brindle, Chappell-Tay, English (Chairman), Eves, Harwood, Kimmance, Munford, Parfitt-Reid, Perry, Spooner (Vice-Chairman), Vizzard and Wilby

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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## **AGENDA**

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 Items withdrawn from the Agenda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 - 30 January 2020
6. Any business the Chairman regards as urgent including the urgent update report as it relates to matters to be considered at the meeting
7. Disclosures by Members and Officers
8. Disclosures of lobbying
9. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
10. Minutes of the meeting held on 19 December 2019 1 - 8
11. Presentation of Petitions (if any)
12. Deferred Items 9 - 10
13. 11/1948 - Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent 11 - 45

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**Issued on Wednesday 15 January 2020**  
**Over/:**

**Continued**

*Alison Broom*

**Alison Broom, Chief Executive**

14.	19/503912/FULL - Land At Bicknor Farm, Sutton Road, Langley, Maidstone, Kent	46 - 71
15.	19/504497/FULL - The Wheelwrights, The Green, Boughton Monchelsea, Maidstone, Kent	72 - 86
16.	19/504468/FULL - Access At Little Venice Country Park And Marina, Hampstead Lane, Yalding, Kent	87 - 94
17.	19/503584/FULL - Kingsbrooke, Cranbrook Road, Staplehurst, Tonbridge, Kent	95 - 102
18.	19/505893/FULL - Land To The Rear Of 1-3 Highland Road, Maidstone, Kent	103 - 109
19.	19/504225/FULL - Land To The South Of The Gables, Marden Road, Staplehurst, Kent	110 - 119
20.	Appeal Decisions	120

#### **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.**

#### **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

If you require this information in an alternative format please contact us, call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

In order to speak at this meeting, please contact Democratic Services using the contact details above, by 4 p.m. on the working day before the meeting (i.e. Wednesday 22 January 2020). If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated for each application on a first come, first served basis.

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## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 19 DECEMBER 2019**

**Present:** Councillor English (Chairman) and  
Councillors Adkinson, Brindle, Eves, Harwood,  
Kimmance, Munford, Parfitt-Reid, Perry, Spooner,  
Vizzard and Young

**Also** Councillor J Sams  
**Present:**

#### 163. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Chappell-Tay and Wilby.

#### 164. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Young would be substituting for Councillor Chappell-Tay and was on her way to the meeting.

#### 165. NOTIFICATION OF VISITING MEMBERS

Councillor J Sams indicated her wish to speak on the reports of the Head of Planning and Development relating to applications 19/503104/FULL (Land at Church Road, Harrietsham, Kent) and 19/503995/EIFUL (Land at Old Ham Lane, Lenham, Maidstone, Kent).

It was noted that Councillor McKay had registered to speak as a Visiting Member on the report of the Head of Planning and Development relating to application 19/505310/FULL (Mote Park Maidstone, Willow Way, Maidstone, Kent), but would be late in arriving at the meeting.

Note: Councillor Harwood entered the meeting at the conclusion of this item (6.05 p.m.).

#### 166. APPOINTMENT OF VICE-CHAIRMAN

**RESOLVED:** That Councillor Spooner be appointed as Vice-Chairman of the Committee for the remainder of the Municipal Year 2019/20.

#### 167. ITEMS WITHDRAWN FROM THE AGENDA

There were none.

168. URGENT ITEMS

The Chairman said that, in his opinion, the updates to be included in the Officer presentations should be taken as urgent items as they contained further information relating to the applications to be considered at the meeting.

169. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

170. EXEMPT ITEMS

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

171. MINUTES OF THE MEETING HELD ON 28 NOVEMBER 2019 ADJOURNED TO 5 DECEMBER 2019

**RESOLVED:** That the Minutes of the meeting held on 28 November 2019 adjourned to 5 December 2019 be approved as a correct record and signed.

172. PRESENTATION OF PETITIONS

There were no petitions.

173. DEFERRED ITEMS

19/500200/FULL - RETROSPECTIVE APPLICATION FOR A CHANGE OF USE OF LAND TO BE USED AS A GYPSY/TRAVELLER CARAVAN SITE CONSISTING OF ONE PITCH - LITTLE PADDOCKS, STILEBRIDGE LANE, LINTON, KENT

There was nothing further to report in respect of this application at present.

19/504225/FULL - ERECTION OF A REPLACEMENT BARN (REVISED SCHEME TO 19/502397/FULL) - LAND TO THE SOUTH OF THE GABLES, MARDEN ROAD, STAPLEHURST, KENT

There was nothing further to report in respect of this application at present.

19/501600/OUT - OUTLINE APPLICATION FOR UP TO 440 RESIDENTIAL DWELLINGS, WITH ASSOCIATED ACCESS, INFRASTRUCTURE, DRAINAGE, LANDSCAPING AND OPEN SPACE (ACCESS BEING SOUGHT WITH ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION) - LAND WEST OF CHURCH ROAD, OTHAM, KENT

The Principal Planning Officer said that the applicant was working on the reasons for deferral and it was hoped to report the application back to the Committee in the New Year.

174. 19/505310/FULL - DEMOLITION OF EXISTING CAFE BUILDING AND ERECTION OF NEW MOTE PARK CENTRE WITH ASSOCIATED TERRACES, BIN STORAGE AND CAR PARKING AND THE ERECTION OF STORAGE, MESS AND WELFARE BUILDING FOR PARK MAINTENANCE TEAM - MOTE PARK MAIDSTONE, WILLOW WAY, MAIDSTONE, KENT

There were no disclosures of lobbying.

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

Ms Wallis addressed the meeting on behalf of the applicant. Councillor McKay had registered to speak as a Visiting Member, but was late in arriving at the meeting.

**RESOLVED:**

1. That permission be granted subject to the conditions set out in the report with:
  - The amendment of the last sentence of condition 6 (Visitor Centre – Landscaping) to refer to replacement trees (4 to replace the 4 trees that will be lost as a result of the development);
  - The amendment of the first sentence of condition 15 (Maintenance Building – Landscaping) to specify that the landscaping scheme shall be designed in accordance with the principles of the Council's landscape character guidance; and
  - An informative advising the applicant that in view of the potential phasing out of gas heating in the near future, it is recommended that alternative means of heating the building is explored.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the amended conditions and the informative and to amend any other conditions as a consequence.

Voting:        6 – For        3 – Against        1 – Abstention

Note: Councillors Spooner and Young joined the meeting after consideration of this application (6.25 p.m.).

175. 19/503995/EIFUL - ERECTION OF 136 RESIDENTIAL DWELLINGS TOGETHER WITH ACCESS, PARKING, DRAINAGE, LANDSCAPING AND ASSOCIATED WORKS - LAND AT OLD HAM LANE, LENHAM, MAIDSTONE, KENT

All Members except Councillors Harwood and Young stated that they had been lobbied.

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

In presenting the application, the Major Projects Manager provided a verbal update and advised the Committee that he believed that Members had received an email earlier that day on behalf of a landowner to the south of the railway line at Lenham expressing concerns about the delivery strategy for future highway links.

The Major Projects Manager explained that the applicant had agreed to reserve an area of land in the southern part of the site to provide the future access link and had also agreed a strategy for its delivery prior to the completion of the final unit on the site. It was explained that the link was not required in order to make the development acceptable in highway terms and it would be onerous and unnecessary to demand the early delivery of the southern link, but that it would be provided when it was necessary. Delegated powers were sought to finalise a number of highway conditions, the principal reason being that the comments of KCC Highways had been received on the day that the agenda was published. Subject to the imposition of conditions, KCC Highways was now content that the scheme meets all of its requirements.

The Head of Planning and Development sought delegated powers to negotiate a further S106 Head of Terms to firm up the spine road strategy such that it links up to further developments to the north and the south and is not built out in isolation.

Mr Barker, an objector, Mr Bewsey, for the applicant, Councillor Greenwood of Lenham Parish Council and Councillor J Sams (Visiting Member) addressed the meeting.

**RESOLVED:** That subject to:

- (a) The prior completion of a S106 legal agreement in such terms as the Head of Legal Partnership may advise to provide for the Heads of Terms set out in the report and an additional Head of Terms relating to the design and delivery of the spine road with specific instructions to the Head of Planning and Development to negotiate an appropriate lower unit trigger relating to the delivery of the southern link;
- (b) Conditions 1 – 25 set out in the report with:
  - An additional condition to secure the incorporation of 10% renewable energy measures within the affordable housing element of the development; and
  - Amendments to the appropriate conditions to secure:

Enhanced landscaping in the south east corner of the site; and  
The incorporation of bee bricks and wildlife friendly gullies and  
gaps under fences to facilitate the movement of wildlife; AND

- (c) The conditions requested by KCC Highways relating to the site access, William Pitt Field, visibility splays, air quality mitigation scheme and refuse storage and collection with the southern link trigger being incorporated into the S106 legal agreement,

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle, add or amend any necessary Heads of Terms and conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Voting:        10 – For        0 – Against        2 – Abstentions

176. 19/503104/FULL - ENGINEERING OPERATIONS TO ALTER THE LEVELS WITHIN THE PUBLIC OPEN SPACE IN THE EASTERN AREA OF THE SITE - LAND AT CHURCH ROAD, HARRIETSHAM, KENT

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

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

Mr Watson, an objector, Councillor Powell of Harrietsham Parish Council, Councillor J Sams (Visiting Member) and Mr Loughhead, for the applicant, addressed the meeting.

**RESOLVED:**

1. That permission be granted subject to the conditions set out in the report and an additional condition requiring a mitigation scheme for surface water run-off, including details of ongoing maintenance of the scheme.
2. That the Head of Planning and Development be given delegated powers to finalise the wording of the additional condition and to amend any other conditions as a consequence.

Voting:        9 – For        2 – Against        1 – Abstention

Note: The Chairman left the meeting after consideration of this application (7.30 p.m.) and the Vice-Chairman took the Chair for the remainder of the meeting.

177. 19/503532/OUT - OUTLINE APPLICATION WITH ACCESS MATTERS SOUGHT FOR DEMOLITION OF TWO EXISTING BUILDINGS AND ERECTION OF FOUR RESIDENTIAL DWELLINGS (MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE ARE RESERVED FOR FUTURE CONSIDERATION) - 3-5 KINGS ROAD, HEADCORN, ASHFORD, KENT

Councillors Adkinson, Kimmance, Munford and Spooner stated that they had been lobbied.

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

Councillor Dungey of Headcorn Parish Council and Ms Jackson, for the applicant, addressed the meeting.

**RESOLVED:** That consideration of this application be deferred for further discussions with the applicant to (a) seek to secure a reduced scheme of three units and (b) explore the potential for a wet woodland landscaping scheme along the rear of the site.

Voting:        10 – For        0 – Against        1 – Abstention

178. 19/503527/OUT - OUTLINE APPLICATION FOR DEMOLITION OF EXISTING CHALET BUNGALOW, DETACHED GARAGE AND SHED. ERECTION OF 4 NO. DWELLINGS WITH CREATION OF NEW ACCESS AND ASSOCIATED PARKING. MATTERS RELATING TO ACCESS, LAYOUT, APPEARANCE, LANDSCAPING AND SCALE RESERVED FOR FUTURE CONSIDERATION - PENRYN, STATION ROAD, STAPLEHURST, TONBRIDGE, KENT

Councillors Adkinson, Kimmance, Munford and Vizzard stated that they had been lobbied.

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

Councillor Riordan of Staplehurst Parish Council and Ms Jackson, for the applicant, 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 the principle of the development of four units on this site would result in a cramped form of development that would be harmful to the character and appearance of the street scene, contrary to policy DM1 of the Maidstone Borough Local Plan 2017 and policies H1 and H2 of the Staplehurst Neighbourhood Plan.

**RESOLVED:** That permission be refused for the following reason:

The principle of the development of four units on this site would result in a cramped form of development that would be harmful to the character and appearance of the street scene, contrary to policy DM1 of the Maidstone Borough Local Plan 2017 and policies H1 and H2 of the Staplehurst Neighbourhood Plan.

Voting:        5 – For        4 – Against        2 – Abstentions

Councillor Kimmance requested that his dissent be recorded.



Note:

1. During the discussion on this application, concern was expressed about the limited assessment of Neighbourhood Plan policies within the Committee report.
2. Councillor Harwood left the meeting after consideration of this application (8.55 p.m.).

179. 19/503702/REM - APPROVAL OF RESERVED MATTERS FOR APPEARANCE, LANDSCAPING AND SCALE BEING SOUGHT FOLLOWING OUTLINE PLANNING PERMISSION 13/2038 FOR THE ERECTION OF 62 NO. DWELLINGS WITH ASSOCIATED CAR PARKING, LANDSCAPING AND DEMOLITION OF EXISTING DWELLING - LAND AT POSTLEY ROAD, MAIDSTONE, KENT

There were no disclosures of lobbying.

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

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

Voting:        10 – For        0 – Against        0 – Abstentions

180. 19/505283/FULL - CHANGE OF USE OF LAND FROM AGRICULTURAL TO RESIDENTIAL - CANDLE COTTAGE, THE STREET, ULCOMBE, MAIDSTONE, KENT

There were no disclosures of lobbying.

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:        10 – For        0 – Against        0 – Abstentions

181. 19/505120/TPOA - TPO APPLICATION - CLEAR FELL SMALL DEAD STANDARD, CROWN LIFT WILLOW TREES BY UP TO 5M FROM BRIDGE HEIGHT TO GIVE CLEAR SIGHT LINE AND ACCESS - 54 LENSIDE DRIVE, BEARSTED, MAIDSTONE, KENT

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

**RESOLVED:** That subject to the expiry of the site notice and no new material planning issues being raised which have not been considered already, the Head of Planning and Development be given delegated

powers to grant permission subject to the condition and informatives set out in the report.

Voting:        10 – For        0 – Against        0 – Abstentions

182. APPEAL DECISIONS

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

**RESOLVED:** That the report be noted and that the Officers be congratulated on their success at appeal.

183. DURATION OF MEETING

6.00 p.m. to 9.05 p.m.

## **MAIDSTONE BOROUGH COUNCIL**

### **PLANNING COMMITTEE**

**23 JANUARY 2020**

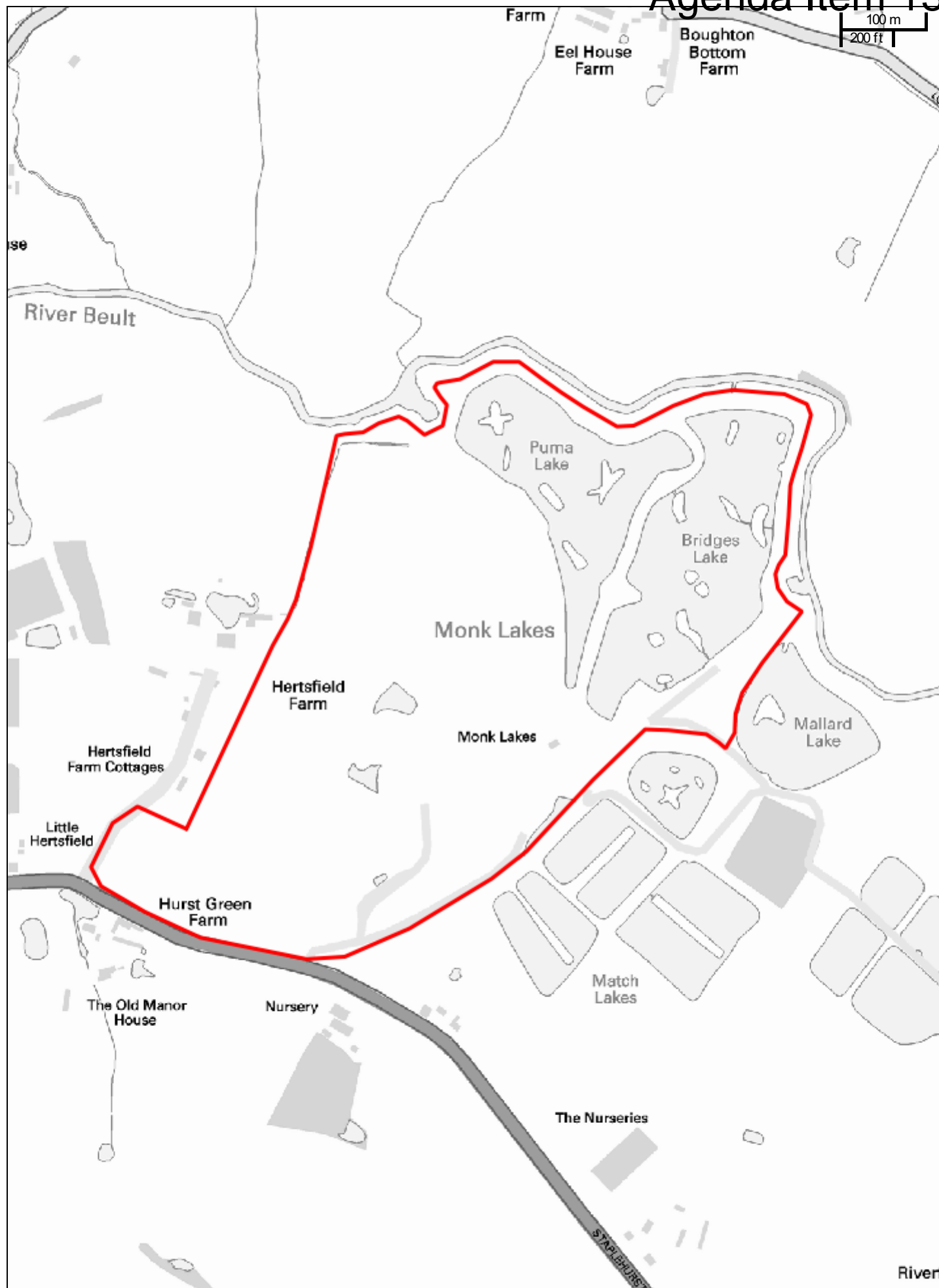
#### **REPORT OF THE HEAD OF PLANNING AND DEVELOPMENT**

#### **DEFERRED ITEMS**

The following applications stand deferred from previous meetings of the Planning Committee. The Head of Planning and Development will report orally at the meeting on the latest situation.

<b>APPLICATION</b>	<b>DATE DEFERRED</b>
<p><u>19/500200/FULL - RETROSPECTIVE APPLICATION FOR A CHANGE OF USE OF LAND TO BE USED AS A GYPSY/TRAVELLER CARAVAN SITE CONSISTING OF ONE PITCH - LITTLE PADDOCKS, STILEBRIDGE LANE, LINTON, KENT</u></p> <p>Deferred for further negotiations with the applicant to secure a revised site layout/landscaping plan showing parking/hardcore to the entrance of the site and extending inwards with an amenity area towards the rear part of the site which would be suitable for the needs of existing/future occupants.</p>	25 July 2019
<p><u>19/501600/OUT - OUTLINE APPLICATION FOR UP TO 440 RESIDENTIAL DWELLINGS, WITH ASSOCIATED ACCESS, INFRASTRUCTURE, DRAINAGE, LANDSCAPING AND OPEN SPACE (ACCESS BEING SOUGHT WITH ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION) - LAND WEST OF CHURCH ROAD, OTHAM, KENT</u></p> <p>Deferred for further discussions to:</p> <ul style="list-style-type: none"> <li>• Seek to remove the proposed car park for the Church from the scheme;</li> <li>• Seek to (a) amend the Parameter Plan to provide a greater amount of wooded open space at the southern end of the site to protect the Ancient Woodland and create a sustainable open space and (b) to amend conditions 4 and 7 to require woodland planting to restore and protect the Ancient Woodland and enhance the landscaping around the Church;</li> </ul>	24 October 2019

<ul style="list-style-type: none"> <li>• Seek to resolve the outstanding issues relating to improvements to the Willington Street/Deringwood Drive junction;</li> <li>• Give further consideration to the impact of the development on the Spot Lane junction and possible mitigation;</li> <li>• Investigate the potential widening of Church Road to the south of the site where this would not involve the loss of Ancient Woodland;</li> <li>• Seek to optimise the amount of renewable energy generated on site (to avoid use of fossil fuel heating); and</li> <li>• Seek further clarification of the surface water drainage scheme and how it can be satisfactorily accommodated within the development layout.</li> </ul>	
<p><u>19/503532/OUT - OUTLINE APPLICATION WITH ACCESS MATTERS SOUGHT FOR DEMOLITION OF TWO EXISTING BUILDINGS AND ERECTION OF FOUR RESIDENTIAL DWELLINGS (MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE ARE RESERVED FOR FUTURE CONSIDERATION) - 3-5 KINGS ROAD, HEADCORN, ASHFORD, KENT</u></p> <p>Deferred for further discussions with the applicant to (a) seek to secure a reduced scheme of three units and (b) explore the potential for a wet woodland landscaping scheme along the rear of the site.</p>	<p>19 December 2019</p>



<b>REFERENCE NO - 11/1948</b>		
<b>APPLICATION PROPOSAL</b> Part retrospective planning application for the retention of two lakes known as 'Bridges' and 'Puma' and works to create 3 additional lakes all for recreational fishing, erection of clubhouse, building and associated works and landscaping.		
<b>ADDRESS</b> Monk Lakes, Staplehurst Road, Marden, Maidstone, Kent, TN12 9BU		
<b>SUMMARY OF REASONS FOR RECOMMENDATION – (APPROVE SUBJECT TO CONDITIONS)</b> <ul style="list-style-type: none"> <li>• It is considered that the development, subject to mitigation that will be secured via conditions and a legal agreement, would not cause harm to the landscape or visual amenities of the area; heritage assets; residential amenity; biodiversity or the River Beult SSSI; and impacts relating to flood risk, surface water drainage, and groundwater drainage can be suitably mitigated.</li> <li>• The development is in accordance with the relevant policies of the Development Plan, the NPPF, and relevant policies in the emerging Marden Neighbourhood Plan.</li> <li>• There are considered to be 'exceptional circumstances' for granting retrospective permission, namely the planning history and unique circumstances by which significant retrospective development came to be at the application site, and the comprehensive legal agreement that would ensure the development is completed and verified.</li> <li>• The development has been adequately assessed against the pre-development state of the site (2003) and so the applicant has not gained an unfair advantage because this is predominantly retrospective development.</li> <li>• The supporting information for the application, and the assessment and recommendation, has suitably addressed the reasons for the quashing of the previous decision made in 2012.</li> <li>• There are no material considerations that outweigh the above.</li> <li>• Therefore permission is recommended subject to a legal agreement and conditions.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <ul style="list-style-type: none"> <li>• Cllr McLoughlin has requested the application is considered at Planning Committee if minded to approve in view of the history and the adjacent residents concern that their original objections and drainage matters have not been adequately addressed.</li> <li>• Cllr D Burton has requested the application is considered at Planning Committee.</li> </ul>		
<b>WARD</b> Marden & Yalding	<b>PARISH COUNCIL</b> Marden	<b>APPLICANT</b> Mr & Mrs Harrison

<b>DECISION DUE DATE</b> 23/02/20			<b>PUBLICITY EXPIRY DATE</b> 03/12/19		
<b>RELEVANT PLANNING HISTORY</b>					
<b>App No</b>	<b>Proposal</b>		<b>Decision</b>		<b>Date</b>
00/1162	Change of use of land and engineering works to create an extension to the existing fish farm and provision of temporary works access		APPROVED		02.01.01
03/0836	Change of use of land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park. The existing access to Staplehurst Road is to be improved		APPROVED		22.09.03
09/1380	Retrospective application for the change of use of existing lakes from fish farm to recreational angling and retention of ancillary car parking and access to site (this related to the Mallard Lakes)		APPROVED		26.11.09
09/2027	Retrospective application for the retention of buildings and mobile facilities to serve recreational angling		TEMPORARY 3 YR PERMISSION APPROVED		04.01.10
10/0762	Erection of clubhouse including decking area, solar photovoltaic tiles and associated works to replace existing buildings on site		WITHDRAWN		
10/0766	Creation of lakes for use for recreational fishing		WITHDRAWN		

## **1.0 DESCRIPTION OF SITE**

1.01 The application site consists of the majority of a recreational fishing complex known as 'Monk Lakes'. The application site includes 2 ground level lakes known as 'Bridges' and 'Puma' which are completed and in use in the northeast corner of the site. The vast remainder of the site to the southwest includes 3 lakes constructed above existing ground levels referred to as Lakes 1, 2, and 3. Lakes 2 and 3 are complete, and Lake 1 requires further works to complete. None of the lakes benefit from planning permission and are the subject of this application. To the southeast of the application site and part of the wider Monk Lakes site, there are lawful above ground ponds and lakes used for recreational fishing.

- 1.02 The site is to the north of the A229 (Maidstone Road) around 3.5km south of the Linton Crossroads and around 3km northwest of Staplehurst falling within Marden Parish. The site also contains an access road leading to a car park (that have planning permission), and a complex of both permanent and temporary/mobile buildings used as a shop, canteen, toilets and storage. The application site extends to some 35 hectares, although the Monk Lakes facility is larger with the lawful lakes to the east.
- 1.03 The nearest residential properties lie along Hertsfield Lane immediately to the west of the site and are Hertsfield Farm Cottages, Old Hertsfield Farmhouse, Hertsfield Barn and Hertsfield Oast. These dwellings are a minimum of 20 metres from the boundary with the application site. There are also some properties close to the site to the south on the opposite side of the A229.
- 1.04 Old Hertsfield Farmhouse is a Grade II listed building as is Hertsfield barn which is about 50 metres to the east of the farmhouse and it is considered that an element of the application site, (that part of it close to these listed buildings) falls within the setting of these listed buildings.
- 1.05 To the south east of the application site is the extensive 'Riverfield Fish Farm' complex of ponds and lakes. These are not part of the applicant's facility.
- 1.06 The northern boundary of the site runs alongside the River Beult which here is a Site of Special Scientific Interest (SSSI). The northern part of the site is within the flood zone of the river. Further north the land rises steeply upwards to the Greensand Ridge. On the northern side of the River Beult there is public footpath KM129 that runs generally on an east/west axis.
- 1.07 The site falls within the countryside but has no special landscape designation in the Local Plan.

## **2.0 BACKGROUND/PLANNING HISTORY**

### **2003-2008**

- 2.01 In September 2003 the LPA granted planning permission (ref. 03/0836) for the *"change of use of the land and physical works to create an extension in the fish farm, to form an area for recreational fishing. The application involves the formation of ponds and lakes, the erection of a building and the formation of a car park..."* Amongst other things, the approved drawing showed 12 ponds/lakes, some of which would be above-ground lakes and this covered the current application site.
- 2.02 Between 2003 and 2008 the previous site owner commenced works in connection with that permission. It became apparent to the LPA that the 2003 planning permission was not being lawfully implemented and that the works being carried out on site were not in accordance with the approved plans. Therefore, in September 2008 the Council served an enforcement notice to deal with the breaches of planning control which required the



removal of all material and restoration of the site back to its pre-development 2003 condition.

#### 2008-2012

- 2.03 The enforcement notice was subsequently appealed by the applicant. Clarification over the status of the appeals, requests for an Environmental Impact Assessment (EIA), and various extensions to deadlines to provide information requested by the Planning Inspectorate (PINS) went on for some time. Litigation also arose involving the current land owners against PINS (2009), which was decided in November 2011. The outcome of this was essentially that the appeal would continue.
- 2.04 At the same time in November 2011, the current planning application was submitted in an attempt to regularise the works at the site, being to largely retain development on site but with further works to remodel the banks of Lakes 1, 2, and 3. The LPA resolved to grant permission at Planning Committee in June 2012 and this was issued in September 2012.

#### 2012- 2014

- 2.05 Around September 2012, the land owner asked for the enforcement appeal to be delayed for 6 months bearing in mind the grant of planning permission. The Planning Inspectorate agreed to this.
- 2.06 The applicant carried out some of the works approved under planning permission 11/1948 to complete the development mainly relating to lakes 2 and 3.
- 2.07 In November 2012, an adjoining neighbour to the site filed a Judicial Review (JR) challenge against the Council's grant of planning permission. This was filed on 4 grounds, two relating to EIA grounds, and the other two relating to groundwater flooding. The enforcement appeal was held in abeyance pending the outcome of the JR.
- 2.08 The JR hearing was held in November 2013 with a decision in January 2014 that quashed the grant of planning permission. The Council is therefore required to re-determine the planning application.
- 2.09 In summary, the JR decision found that the Council had failed to consider whether there were exceptional circumstances to grant retrospective permission (a requirement under EIA case law); and that the Council failed to properly investigate potential groundwater flooding on neighbouring land. This will be outlined in more detail below in the assessment. The effect of the Court's decision is that the planning application was returned to the LPA for redetermination.

#### 2014-2015

- 2.10 In April 2014 the enforcement appeal was re-opened and the hearing was held a year later in April 2015. The grounds being debated at the enforcement appeal were only how much time the land owners should have

to restore the site back to its pre-2003 condition, and not the merits of the development.

- 2.11 In May 2015 the appeal decision was issued and the time periods for compliance with the enforcement notice to restore the site were amended allowing a total time of 22 months (to April 2017). Some of the requirements such as ceasing to use the lakes for fishing were required to stop immediately. The land owner has not complied with any requirements of the enforcement notice to date and is open to prosecution action from the Council. Planning Enforcement has held any action in abeyance pending the re-determination of this planning application.

#### 2015-2019

- 2.12 In July 2015 additional information was submitted by the applicant in relation to this application so it could be re-determined following the JR decision, including the assessment of groundwater impacts, with evidence gathered from borehole testing. The Council employed Mott MacDonald to provide expert advice on groundwater drainage issues as this does not fall within the remit of the Environment Agency or Kent County Council as Lead Local Flood Authority.
- 2.13 In November 2016 the Council requested further information relating to groundwater, including further borehole testing for at least 3 months over winter, and requesting responses to consultee objections. The applicant provided this information in July/August 2017 which was sent out for further re-consultation.
- 2.14 In October 2018 the Council requested further information, which was provided in the form of a new Environmental Statement in February 2019, and this was sent out for further re-consultation.
- 2.15 In August 2019 the Council commissioned its own topographical survey of the site to verify the accuracy of the applicant's plans. Following this, the applicant submitted amended plans relating to Lakes 1-3, and the proposed clubhouse, and a short addendum to the Environmental Statement in October/November 2019 which was sent out for further re-consultation. Detailed responses relating to groundwater and surface water were provided by neighbouring residents in December 2019.

#### Comment

- 2.16 So it is important to note that the LPA has granted planning permission twice for recreational fishing lakes and a clubhouse since 2003 on the application site. The first permission was not lawfully implemented and expired, and the most recent decision was quashed and so the application is being re-determined.

### **3.0 PROPOSAL**

- 3.01 The application seeks retrospective permission for the retention of the 2 below ground lakes (Bridges and Puma) in their current form in the

northeast corner and raised Lakes 2 and 3 on the west side of the site, also in their current form. Permission is also sought for raised Lake 1 and this requires additional works to complete mainly involving raising the levels of the lake bed and minor reductions in the levels of the lake banks. Permission is also sought for the erection of a new clubhouse building in the centre of the wider complex.

- 3.02 'Bridges' and 'Puma' lakes are excavated below ground with their water level just below ground level. Lakes 1, 2, and 3 are/would be between 5m to 6.2m above the previous ground level and have sloped sides which run down to the west boundary with some Hertsfield Road properties, to the south boundary with the A229, and within the site itself. The depth of water would be around 2m.
- 3.03 It is important to note that whilst much of the proposal is retrospective and there are significant above and below ground works on site, planning permission is required for the entire works to create all the lakes, and this is what is being assessed. The assessment is not a comparison between what is currently on site and what is proposed.
- 3.04 Landscaping is proposed largely in the form of woodland planting along the west and south site boundaries and on the lake slopes, and existing landscaping would be retained around Puma and Bridges lakes.
- 3.05 A new clubhouse is proposed to provide facilities for anglers which would be in a similar position as the temporary buildings adjacent to the car park. The building would be single storey with hipped roofs and finished in timber boarding and clay roof tiles. It would have a floor area of 266m<sup>2</sup> and provide toilets and showers, offices, shop, kitchen, and dining area. The existing car park would be formalised with new surfacing and marked spaces, and lowered in the region of 1m from its present position to provide flood compensation. New landscaping would be introduced in and around the car park/clubhouse.
- 3.06 The application is accompanied by an Environmental Statement (ES) originally submitted under the EIA Regulations 2011. The ES has been updated since the original submission in 2011 with the most recent provided in February 2019. As the development was originally submitted under the 2011 EIA Regulations it remains subject to these.

#### **4.0 POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031): SS1, SP17, SP18, SP21, DM1, DM3, DM4, DM8, DM23, DM30, DM37
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EIA Regulations 2011
- Marden Neighbourhood Plan (Draft - subject to Referendum)

#### **5.0 LOCAL REPRESENTATIONS**

**5.01 Local Residents:** 3 representations were received to the quashed application and 12 have been received following re-determination. All representations (that are material to the assessment of the planning application) are summarised as follows:

- The 2003 permission has not been implemented and is not a fall-back position and consideration of the application must be based on the pre 2003 consent position.
- The previous decision in 2012 must be disregarded and policy has changed since then.
- Retrospective EIA development should only be granted in exceptional circumstances and the applicant must not gain any unfair advantage.
- Concern regarding the surface water drainage from the site and its impact on neighbouring residences.
- Waterlogging and groundwater flooding has occurred on adjoining land.
- The groundwater assessment by the applicant is not sufficient to demonstrate that off-site flooding does not occur.
- Consider there to be outstanding issues relating to the assessment of groundwater and mitigation.
- Groundwater mitigation will not be sufficient and concern in relation to the adequacy of the drainage ditch and the potential blockage of pipes between the lakes.
- A condition relating to groundwater is not appropriate.
- Concern over the safety of the reservoirs.
- The impacts on the historic environment and designated Heritage Assets (and settings) have not been properly assessed.
- Unacceptable impacts and harm to the setting and fabric of the Hertsfield Barn Listed Building.
- Harmful to landscape and incongruous.
- Contrary to the Maidstone Landscape Character Assessment, Local Plan, and NPPF.
- LVIA reaches unreasonable conclusions.
- Question whether landscaping can be provided in the context of reservoir safety.
- A new phase 1 habitat survey and ecological report is needed.
- The wildlife impact is not examined from the pre 2003 consent position.
- Harmful to residential amenity.
- Loss of privacy.
- Noise disturbance from fishers.
- Loss of light and outlook to properties from the height of the bank and the proposed planting on top of the bank.
- Overbearing and enclosing impact.
- If the planting on the bank is not carried out then there would be a loss of privacy to the properties from the users of the fishing lakes.
- The reasons for issuing the enforcement notice still stand and have not been overcome.

- The Council were justified and correct in issuing the enforcement notice.
- References to conflict with Local Plan policies.
- Current planning policy and material considerations need to be considered.
- Plans are inaccurate and misleading specifically along the west boundary.
- Lack of information.
- It has been difficult to know what information is being relied upon by the applicant.
- Inconsistency of the submissions (plans and reports).
- An entirely new Environmental Statement is needed.
- A full range of alternatives to the proposed development is required and no alternatives have been explored such as a reduced scale of development.
- The benefits of the development are very limited.
- Reference to Protocol 1, Article 1 of the Human Right Act 1998 which provides for the protection of an individuals or companies property.
- The scheme has been designed to include the importation of more material in order to make money and the previous extensive importation would have generated a sizeable income.
- Concern regarding the type of material that has already been imported onto the site and the future material to be imported.
- The application is a waste matter and therefore should be dealt with by Kent County Council.

5.02 A planning agent on behalf of a neighbouring resident has also made submissions referring to material submitted to the Judicial Review, and representations to the enforcement appeal, which included a report on groundwater flooding and a landscape and visual report. The comments made have been summarised in the issues outlined above.

5.03 A review of the application and the expert advice provided to the Council by Mott MacDonald has also been undertaken by the neighbouring resident's consultant (GeoSmart) who specialise in flood risk and drainage. In their latest comments they essentially consider that a number of issues have not been fully addressed by the applicant and do not agree with the conclusions of Mott MacDonald. This will be discussed in more detail below in the groundwater section of the report.

5.04 **Hertsfield Residents Association** (12 properties) raise the following (summarised) points:

- A fresh planning application should have been submitted following the JR quashing.
- Application fails to overcome harm identified in enforcement notice.
- Flood risk.
- Large clubhouse with both retail premises and a restaurant is entirely out of keeping with the rural environment and to the detriment of local

residents through creating additional traffic movements, noise and disturbance.

- Clubhouse is excessive in size and facilities for the scale of the site and is not necessary.
- Clubhouse is of poor design.
- Environmental Statement is deficient and with statements of conjecture or so called professional opinion.
- The application envisages the importation of a further 51,000m<sup>3</sup> of spoil, necessitating in excess of 5,000 lorry movements. This will create significant noise, disturbance and loss of amenity to local residents and will by definition make worse an already unauthorised waste operation.
- Contaminated waste used to construct the lakes poses health risk.
- Harm to listed buildings.
- Baseline for LVIA should be 2003.
- Access by cars will cause noise and disturbance.
- The members of the HRA have endured serious harm, including flooding, loss of amenity, and impact on the setting of listed buildings.
- There is no approval for the lakes under the Reservoirs Act so the development poses a health and safety risk.

## **6.0 CONSULTATIONS**

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

### **6.01 Marden Parish Council:**

25<sup>th</sup> March 2019: Cllrs recommendations remain the same as before and wish to reiterate their comments from previous meetings as follows:

*"2011: Cllrs wished to see refusal of the 3 new lakes due to the adverse impact upon visual amenity, residential amenity and the wider countryside. Particular concern was raised regarding the flooding risk due to the loss of storage in the flood plain and the potentially contaminated soil already on site and consequently the absence of any justification for the further importation of potentially contaminated matter. This has led to further concerns regarding the potential and/or existing ground and surface water contamination. It is also noted that any Environmental Statement should relate to the site BEFORE the potentially contaminated soil was imported this is thought to be 2003. Any EIA must include an assessment of the soils that have already been imported into the site not just those the applicant might want to import. (in regard to the 2 below ground lakes Bridges and Puma) Cllrs have concerns about possible loss of storage in the flood plain and potential escape of non-native species into the river. We ask that the Borough Council gets specialist advice from the Environment Agency and Natural England. The Clubhouse and car park need to be commensurate in size with the development they have to serve and this remains*

*undetermined. If it is approved then a shop should be allowed only to sell products relating to recreational angling.*

*May 2012: Councillors would like clarification on how the applicant proposes to fill the new raised lakes and wonder whether the Environment Agency is content with any extraction from the river Beult in this period of drought?*

*August 2015: Cllrs have no further objection provided that the Council is satisfied with the response given by the applicant in relation to our three previous grounds of objection and that the Council is also satisfied that the applicants response to the grounds of the successful judicial review have also been overcome."*

*December 2019: "Cllrs duly noted the revised amendments. Cllrs had not changed their view and wished their previous comments to be reiterated."*

- 6.02 **Natural England: No objections** subject to conditions securing surface water run-off during the construction phase to be directed to Puma Lake and/or the proposed temporary settling pond; surplus waters from the new lakes to be directed to Puma Lake; the existing fish fence is to be extended around the proposed new lakes to prevent the escape of fish to the River Beult SSSI during flood events; foul water to be passed through a Klargester system which is to discharge to Puma Lake; and securing the translocation of non-native species from Bridges and Puma. (This is dealt with under a separate Environment Agency permit)
- 6.03 **Environment Agency: No objections subject to conditions** covering finished levels for the clubhouse and walkway; and flood compensation measures. A separate permit outside the planning process will be required to stock non-native fish.
- 6.04 **KCC Lead Local Flood Authority: No objections** to the proposed surface water drainage strategy.
- 6.05 **KCC Ecology: No objections** subject to the precautionary mitigation measures being incorporated into any Construction Environmental Management Plan, and Natural England and Environment Agency being satisfied re. fish escape and pollutants to River Beult.
- 6.06 **KCC Highways: No objections.**
- 6.07 **MBC Conservation Officer: No objections** in terms of the setting of listed buildings (Hertsfield Barn and Old Hertsfield).
- 6.08 **MBC Environmental Health: No objections** and defer to the Environment Agency.
- 6.09 **KCC Minerals:** Advise that there is a basis for invoking the 'exemption' to minerals extraction.

## **7.0 APPRAISAL**

Judicial Review Context for Decision Making

7.01 Development very similar to the current proposal was approved by the Council in 2012. The previous decision was judged to be unlawful and quashed by the High Court for the following (summarised) reasons:

1. Failure by the Council to consider whether there were exceptional circumstances justifying the grant of retrospective permission for Environmental Impact Assessment (EIA) development.
2. Failure by the Council to adequately consider groundwater flooding within the EIA process.

7.02 The Claimant put forward two other grounds relating to whether the applicant gained an unfair advantage from retrospective EIA development and whether the Council unlawfully purported to deal with groundwater flooding by an ill-considered condition. These grounds were not upheld. There were no other challenges to the Council's assessment or decision on the application.

7.03 As the previous decision was quashed the Council must re-determine the application afresh, having regard to the Development Plan and other material considerations, including material considerations which have emerged since the matter was originally considered. However, it has been established in recent case law concerning consistency in decision making (*Davison v Elmbridge Borough Council* [2019] EWHC 1409 (Admin)) that a Council's previous planning judgement or reasoning for their decision, even if quashed, should be taken into account, and is capable of being a material consideration.

7.04 The proposals have changed since the previous determination by the LPA decision but they are minor in nature and the development remains very similar. The changes consist of lower sloped banks in places around Lakes 2 and 3 by no more than 2m, and slightly higher slopes in places of no more than 1m. The height of the lake crests for Lakes 2 and 3 have not significantly changed but where they have, they would be marginally lower. The western banks begin to rise closer to the western boundary in places. The corners of the lakes are at slightly different angles and the islands within the lakes would be different in shape and location. As the changes from the previous determination are minor in nature in the context of the development, the previous planning judgement is still considered to be a material consideration.

7.05 Therefore the assessment below will re-visit all relevant matters but whilst doing this the Council must take into account its previous reasoning for approving the previous development, and provide sufficient and reasonable explanation if it is to reach a different view on any matters.

7.06 It is also of relevance that the Council previously approved fishing lakes at the site under application MA/03/0836 so the principle was accepted at this time. The 2003 permission was not implemented so is not a fall-back position, and the decision was made over 15 years ago, but the Council still



made a decision that fishing lakes developed over the application site, some of which were raised, were acceptable.

7.07 The applicant has sought to address the reasons for the quashing of the previous decision through providing additional information relating to groundwater flooding, and advancing reasons why it is considered exceptional circumstances exist to justifying the grant of permission. Other updated information has been provided in view of the time that has passed such as ecological work, and other additional information for example relating to flood risk. This has all been in the form of an updated Environmental Statement (ES) and addendums. The Council has employed a hydrogeologist expert (Mott MacDonald) to provide advice on potential groundwater flooding issues, this being a matter that is not assessed by the Environment Agency or the Lead Local Flood Authority (KCC).

#### Main Issues

7.08 The provision of recreational fishing lakes at a rural location such as the application site is acceptable in principle and clearly such uses require land take which is only feasible outside settlements. The Monk Lakes wider site already operates lawful fishing lakes and so the proposals also represent business expansion which is allowed in principle under policy SP21 of the Local Plan subject to an appropriate impact.

7.09 The expansion of this rural business with additional fishing lakes and facilities is acceptable in principle, and the main issues, in order to consider whether such expansion is acceptable or not, are as follows:

- Landscape and Visual Impact
- Flood Risk, Surface Water, and Groundwater Impact
- Heritage Impact
- Residential Amenity
- Biodiversity and River Beult SSSI
- Other Matters

#### Landscape and Visual Impact

7.10 The landscape and visual impact of the proposals needs to be assessed on the basis of there being no development where Bridges and Puma Lakes, and Lakes 1-3 are located. This is because they do not benefit from planning permission. However, the proposals must be assessed in the context of the lawful raised fishing lakes in the southeast corner of the complex and those at 'Riverfield Fish Farm' to the east, as these do benefit from planning permission.

7.11 The Council's previous assessment in 2012 was also made on this basis and concluded that there would not be any significant landscape harm from the proposals. This assessment took into account the Maidstone Landscape Character Assessment 2012 (LCA). Whilst the application must be re-determined, the Council would need to provide a sufficient and reasonable explanation if it is to reach a different conclusion, particularly as the changes to the proposals since the 2012 are of a minor nature.

7.12 Since 2012, the Council has adopted a new Local Plan (October 2017). The thrust and aims of the countryside protection policies have not materially changed and policy DM37 (expansion of rural businesses) can allow for the appropriate expansion of rural businesses subject to criterion. In 2015 the Council produced the 'Maidstone Landscape Capacity Study: Sensitivity Assessment' (LCA:SA). This was produced to assess the comparative sensitivity of the Borough's landscapes to development and formed part of the evidence base to the new Local Plan to inform the Sustainability Appraisal of development allocations. This is discussed below.

7.13 The 'landscape' impact of the development is the impact upon the character and quality of the wider landscape, whilst the 'visual' impact relates to the generally available views of the landscape and the effects of the development.

7.14 The applicant's ES concludes that the wider landscape impact of the development initially at 'day one' would be 'moderate negative' as it would be un-mitigated without landscaping being established. Once landscaping is established in years 10-15 it concludes that the impact on the wider landscape would be 'moderate positive' due to the proposed landscaping. In terms of the visual impact, the ES concludes that this would be negative from day one from a number of neighbouring properties, public footpaths on the north side of the River Beult, the Greensand Ridge, and the A229. However, from years 10-15 the impact would be 'slight' to 'moderate positive' due to the impact of the proposed landscaping.

7.15 The LCA 2012 identifies the site as falling within the 'Beult Valley' landscape character area. This has the following key characteristics:

- *Low lying broad shallow valley of the meandering River Beult and Hammer Stream within the Low Weald*
- *Many ponds and watercourses with important ecological interest*
- *Species rich native hedgerow field boundaries with mature oak trees as imposing hedgerow trees and sometimes within fields where boundaries have been removed*
- *Mixed agriculture with large fields supporting arable cultivation and small riverside fields with pasture*
- *Sparsely scattered small woodlands*
- *Historic north-south crossing points with ragstone bridges over the River Beult*

7.16 The LCA refers to the application site stating,

*"58.7 In the middle of the area, at Monk Lakes and Riverfield Fish Farms there is an extensive system of man-made rectangular ponds. As part of this development, there has been extensive land raising and earth modelling along the A229 and the artificial sloping landform appears rather incongruous on the valley side. There is extensive planting of weeping*

*willow along the roadside which also adds to the artificiality of the landscape."*

*"58.15 .....There are generally few visual detractors, although the artificial fishing lakes on the A229 are particularly incongruous."*

- 7.17 The LCA considers the area is defined as having a moderate landscape condition, moderate visual sensitivity, and a high sensitivity to change. Actions include *"integrate the fishing ponds into the landscape by using more appropriate plant species and resisting further artificial earthworks."* The LCA:SA from 2015, and produced after the previous decision, essentially reaches the same conclusions and does not add any material consideration beyond the 2012 LCA.
- 7.18 The LCA clearly considers that the rectangular ponds and land raising, many of which have planning permission and are at Monk Lakes and Riverfield Fish Farm, detract from the landscape. This assessment was carried out when Lakes 1-3 were incomplete (2012) and so would have assessed the incomplete earth works as they were at the time and not how they are proposed under the application. Nonetheless, Lakes 1-3 would represent man-made raised lakes within the river valley which is a predominantly flat area.
- 7.19 Prior to development, the site was generally level with a gentle slope down to the river from south to north. The raised lakes would introduce further man made features into the river valley regarded as a sensitive landscape in the LCA. However, because they would be adjacent to and within the context of the substantial lawful raised lakes at Monk Lakes and Riverfield Fish Farm, it is considered that the three raised lakes would not appear as an incongruous feature, and their impact upon the landscape character of the wider area would not be harmful. Neither is it considered that the cumulative impact with the existing lawful lakes would be harmful to the landscape character of the area.
- 7.20 From a visual aspect, the raised banks would be visible in public views from a section of the A229, from the PROW on the north side of the River Beult, and in longer distance views from the Greensand Ridge. I agree with the previous committee report assessment that from the section of the A229 where the site is visible, the banks of the proposed lakes would not result in an unduly harmful feature as they would have a relatively gentle slope. The minor changes to the proposals since the previous assessment do not affect this opinion. Proposed landscaping around the south of Lake 1 and to the west of all three lakes would also serve to soften the impact from the A229. Under the assessment in 2012, it was outlined that the plant species in the landscaping scheme would be revised by way of condition (to remove willow). The applicant has therefore provided an amended plan removing the use of willow (a detractor identified in the LCA).
- 7.21 From PROW KM129 to the north side of the River Beult, many views of the raised lakes would be broken by vegetation and where views are open, the proposed raised lakes would be in excess of 250m from the footpath and at this distance and within the wider context, would not result in visual harm.

- 7.22 There are longer distance views of the site from the slope up towards the Greensand Ridge. I agree with the previous assessment that due to the distance of these views and the context of other lawful lakes, the proposed raised lakes would not be significantly intrusive in the landscape. Indeed having viewed the site from here, the lakes would not be prominent.
- 7.23 Bridges and Puma lakes are at ground level and are not identified as visual detractors in the LCA. Their shape is irregular and so they appear more natural and are obviously not raised. For these reasons, and when compared to the pre-development state of the site, they do not cause any harm and they represent another water body seen in the context of lawful fishing lakes and the River Beult. The existing landscaping around them would be retained and also serves to soften the impact of these lakes. They are visible from the PROW north of the river but are 50m away and are not visually intrusive.
- 7.24 In conclusion, the proposed lakes will inevitably have some landscape and visual impact but in the context of the lawful lakes and the viewpoints available, the impact of the lakes is not considered to be harmful to the character and appearance of the area. This is in accordance with policy SP17 of the Local Plan and policies NE3 and NE5 of the emerging Marden Neighbourhood Plan (NHP). In the context of policy DM37 (expansion of rural businesses), the proposals are also appropriate in scale for the location and can be satisfactorily integrated into the local landscape.
- 7.25 Since the previous decision the Environment Agency have confirmed that the proposed clubhouse needs to be raised to have a finished floor level of 17.36m AOD with a raised walkway. This means the building would be raised around 2m above the car park level so the ridge height would sit at some 5.2m above the car park. Being within the centre of the site and so a significant distance from any public vantage points, the visual impact of the clubhouse would be minimal and it would not cause any harm to the surrounding landscape. The design is also acceptable being single storey with a shallow pitched roof, and clad in timber with a clay tile roof.

#### Flood Risk

- 7.26 Bridges and Puma lakes lie within Flood Zones 2 and 3, as do some areas of the raised lakes at their north end, and small areas on the west boundary. The raised lakes would result in the loss of flood storage of a maximum of 30,200m<sup>3</sup>. This would be compensated for through the lowering of land levels in the vicinity of the car park providing 16,550m<sup>3</sup> of storage and at least 26,000m<sup>3</sup> provided in Bridges and Puma lakes between the lake water level and pre-development ground levels (i.e. the lake levels are below the pre-development ground levels). Therefore a total of 42,550m<sup>3</sup> compensation storage would be provided.
- 7.27 The Environment Agency have reviewed the proposals and raise no objections in terms of flood risk, compensation areas, and the assessment of flood risk for the clubhouse (including finished floor levels and a dry

walkway for access/egress), and assessment of flow impedance. This is in accordance with policy DM1 of the Local Plan.

### Surface Water

- 7.28 The submitted ES considers that prior to development, surface water flowed generally in a northern direction towards the River Beult in some areas via drainage ditches. The ES considers that much of this pre-development surface water drainage system has been obscured or made redundant by the works that have occurred on site since 2003.
- 7.29 Surface water flow from the development would occur via run-off from the raised lakes. This run-off would be controlled via a series of 'french drains', pipes and drainage ditches. Notably there would be a large open surface water drainage ditch along the west boundary where lakes 1-3 border the site, which would control surface water run-off. This mitigation would take into account climate change allowances and would control run-off so it would be no worse than the pre-development rates. Otherwise much of the surface water would be contained within the lakes with overflow cascaded from Lake 1 to 3 and then into Puma Lake, which has controlled discharge to the River Beult.
- 7.30 Kent County Council acting as Lead Local Flood Authority and statutory consultee on surface water drainage matters have reviewed the development and proposed drainage strategy. They advise that provided the ditches are implemented as described then surface water flow rates from the site would be appropriately controlled and raise no objections. They also recommend that an inspection is undertaken to confirm that these measures have been implemented as described. An inspection of drainage works is not normal practice for planning applications but it is considered that this should be carried out in this particular case due to the retrospective nature and scale of the earthworks. This will be secured via the Section 106 agreement (which will be discussed in more detail below). The development is therefore in accordance with policy DM1 of the Local Plan and policy NE1 of the emerging NHP.

### Groundwater

- 7.31 The failure by the Council to adequately consider groundwater flooding within the application/EIA process was a reason for the quashing of the previous decision in 2012. The applicant's ES has now carried out an assessment of groundwater impacts and the Council has employed a hydrogeologist specialist Mott MacDonald (MM) to advise, particularly as there is no statutory consultee that covers this matter. This is a particularly complicated issue and this report provides a summary of the key issues.
- 7.32 Representations made by local residents to the west of the site consider that since development has been carried out at the site, flooding and waterlogging has occurred on their land, including raised water levels on a nearby pond. One neighbouring resident has employed their own specialists (GeoSmart) who have commented on the application a number of times.

MM has considered all representations in detail including that of 'GeoSmart' in reaching their conclusions.

- 7.33 In 2015 additional information was submitted by the applicant that acknowledged groundwater flooding as a potential impact and proposed groundwater control measures to mitigate it. This was reviewed by MM on behalf of the LPA in 2016. The LPA subsequently requested clarification and further assessment of certain issues relating to groundwater and drainage, with the applicant's response provided in 2017.
- 7.34 The key deficiency of the 2015 and 2017 information was the lack of baseline data, which makes it impossible to establish conclusively what the pre-development groundwater conditions were (in 2003). Groundwater flow data from 2003 simply does not exist. Therefore to reach a decision on the application, the LPA asked the applicant to assess potential impacts against their interpretation of the likely baseline conditions, based on the available information and their professional judgement.
- 7.35 To ensure that adequate information is provided to support the revised assessment, the LPA set out a series of further issues to be addressed in October 2018. The applicant provided a further technical report in February 2019 which forms the basis for the 'Flood Risk, Hydrology, Hydrogeology and Groundwater and Drainage' chapter of the ES.
- 7.36 MM advise the LPA that the retrospective assessment of groundwater impacts is difficult due the lack of baseline data. Specifically, no pre-development groundwater level measurements are available for the site and, because of the significant earthworks undertaken at the site, the pre-development geological conditions are also uncertain. So, whilst a conceptual understanding of the pre-development hydrogeological conditions can be developed, no data is available either to verify it or, to enable precise quantification of the magnitude of change that has occurred since the site was developed. The impact assessment must therefore be based on an interpretation of the available information and reasonable assumptions.
- 7.37 Because of this uncertainty, the applicant proposed groundwater control measures to mitigate potential offsite groundwater flooding. A significant amount of work has been undertaken by the applicant to develop a conceptual understanding of pre and post-development (albeit not completed) hydrogeological conditions, which has included the drilling of additional boreholes and monitoring of groundwater levels.
- 7.38 MM advise that the total work undertaken to investigate the potential for off-site groundwater flooding impacts is proportional to the level of risk and, commensurate with their expectations for a proposed development of this nature. In summary, the applicant's ES concludes that the pre-development topography is such that the expected groundwater flow direction would be broadly northwards towards the River Beult. It considers that the magnitude of groundwater level change as a result of the development would be small.

- 7.39 MM advise that the applicant's evidence does acknowledge the potential for an off-site impact on groundwater level but the overall tone of the document attempts to diminish the significance of this. Whilst the ES suggests that groundwater impacts due to the development have been minimal, this has not been conclusively demonstrated. Neither has the potential for increased groundwater levels been discounted. MM advise that the development may not have increased groundwater levels in the vicinity of the western site boundary but, since this has not been discounted, they must conservatively assume that groundwater levels at the site may have been increased by the proposed development and thus, mitigation is required. In the absence of baseline data MM advise this is a sensible approach to take and that whilst there is still some uncertainty regarding the ground and groundwater conditions (both on and off-site), this is the usual situation for any proposed development.
- 7.40 The ES considers that groundwater impacts can be mitigated through a groundwater interceptor ditch along the west boundary and has provided an outline design. It would be designed in two parts, a lower part with a perforated pipe to convey groundwater to the River Beult, and the upper part, an open surface water ditch (as outlined in the surface water assessment above). The applicant considers that this would prevent any potential increase in groundwater level west of the site boundary, above the recorded water level at the pond at Hertsfield Farm to the west, and that once implemented, the offsite impacts would be negligible.
- 7.41 MM agree that the proposed drainage system is a suitable solution but the outline design needs to be refined. They advise that the detailed design could be approved by the LPA via a condition which would need to include the following:
- Detailed construction drawings showing all elements of the groundwater and surface water drainage system;
  - Calculations of the anticipated volume of groundwater to be intercepted by the system;
  - Sensitivity testing of the design to allow for any uncertainties;
  - Confirmation (where possible) of the elevations of relevant off-site receptors;
  - A narrative explaining the operating assumptions behind the design;
  - A maintenance plan for the groundwater interceptor drain and surface drainage ditch;
  - Demonstration that the design will resist long-term threats to its integrity and effectiveness;
  - A site inspection and groundwater level monitoring plan to verify that site conditions are consistent with the established hydrogeological conceptual site model and design assumptions
  - A protocol for responding to any unforeseen ground/groundwater conditions during construction.
  - A Verification Report including photographs of the excavations before and after placement of the drainage system components and as-built drawings

- 7.42 It is considered that the mitigation (drainage ditch system) is appropriate in view of the expert advice that, in the absence of evidence to the contrary, there is some potential that groundwater levels at the site may have been increased by the proposed development.
- 7.43 One local resident's consultant (GeoSmart) has made detailed comments on a number of occasions most recently in December 2019, including on MM's advice to the LPA. In summary, they do not consider groundwater impacts have been sufficiently assessed by the applicant, do not consider the feasibility of the proposed mitigation has been demonstrated and so consider a condition is not appropriate, they also raise a number of technical issues, and disagree with some of the advice provided by MM.
- 7.44 In providing their advice, MM have reviewed all representations in relation to groundwater. They have also reviewed the latest representations from 'GeoSmart' and they advise that their conclusions are not affected by this most recent representation. They maintain their advice and recommendations, and that a condition is appropriate.
- 7.45 Whilst disputed by the resident's consultant, it is considered acceptable to require the fine detail of the mitigation via a condition. This is on the basis that the principle of this approach has been sufficiently assessed and scrutinised by MM and they are satisfied the ditch system is in principle a suitable solution and that the applicant's outline design is conceptually sound subject to refinement that the LPA can secure via conditions with the ongoing support of MM.

#### Heritage Impact

- 7.46 The previous assessment considered there to be no significant impact upon the setting of listed buildings being Hertsfield Barn (GII) and Old Hertsfield (GII) both to the west of the site.
- 7.47 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on decision makers, when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF requires the local planning authority, when assessing an application to 'identify and assess the particular significance of any heritage asset that may be affected by the proposal.
- 7.48 Hertsfield Barn, a timber framed barn of 15<sup>th</sup> Century or early 16<sup>th</sup> Century age with attached 19<sup>th</sup> Century cattle shelter, is adjacent to the site and is seen in the context of part of the proposed development. The site previously provided a generally flat and open setting to the east of the Barn. This would be changed to grassed banks that would be planted with vegetation. Whilst the land to the east was previously generally level and largely open and this formed part of the historic setting of the barn, I do not consider the application site is an important part of the listed barn's



significance and this derives more from the fabric and architectural merit of the building itself, and its group value and association with the Old Hertsfield, and Hertsfield Oast as a small farm complex. The development would not affect this group value or association and therefore the barn's significance. Old Hertsfield Farmhouse is 18<sup>th</sup> century, possibly with earlier core, and the listing record states that part of the reason for the listing is for its group value. This building is separated from the site by Hertsfield Barn and Hertsfield Oast such that the proposed development is not clearly seen in the context of the listed building and for this reason the development would not harm the setting or significance of the building. The application site is also not an important part of this listed building's significance similar to Hertsfield Barn. Nor is it considered that introducing sloped grassed and landscaped planted banks would represent a development feature that would be harmful to, or incompatible with, the listed building's settings.

7.49 The Conservation Officer has also assessed the proposals and considers that although the bunding relating to the creation of one of the lakes would lie close to the listed Hertsfield Barn, the impact on its setting is not damaging to its setting or significance. This is in accordance with policies SP18 and DM4 of the Local Plan. He considers there would be no harm to Old Hertsfield.

7.50 Representations have been made that groundwater has caused damage to Hertsfield Barn through damp and so harm is being caused to the fabric of this listed building. As outlined above, there is uncertainty regarding ground and groundwater conditions both on and off site and so it is not conclusive that the development has resulted in groundwater impacts off-site, let alone causing any impact upon the listed building itself. Notwithstanding this, groundwater impacts would be mitigated by the proposed drainage system as outlined above.

#### Residential Amenity

7.51 I agree with the 2012 assessment that due to the distance from the nearest houses to the west, 3-6 Hertsfield Cottages (28m) and Hertsfield Barn (30m), the proposed gradient of the banks (around 1 in 8), and the overall height of around 6.2m above neighbouring levels, the lakes would not have an unacceptably oppressive impact upon the houses or their outlook, or result in any significant loss of light. This is also the case for the rear gardens of 3-6 Hertsfield Cottages some of which adjoin the site boundary. The minor changes to the proposals since the previous assessment, including where the slope begins to rise closer to the western boundary in places, do not affect this conclusion. The grounds of Hertsfield Barn adjoin the site but this is a parking/turning area and orchard, and the property enjoys other private garden space so that outdoor living conditions would not be unacceptably impacted. Nor do I consider the proposed tree planting and landscaping would have any unacceptable impacts in terms of light or outlook.

7.52 There are two properties on the south side of the A229 to the south of Lake 1, Hurst Green Barn and Swan Oast. Hurst Green Barn would be closest at

20m from the start of the banks, separated by the A229, and at this distance the lakes would not have an unacceptably overbearing impact upon the property or its outlook, or result in any significant loss of light. Swan Oast would be 45m away. Any other nearby properties would be a sufficient distance such that no harm to amenity would be caused.

- 7.53 I also consider that as the crest of the banks and therefore the potential area for fishing would be over 50m from the nearest houses and at least 33m from the nearest gardens, there would not be any unacceptable impact upon privacy from people fishing. Once more, conditions are proposed to prevent night fishing and car parking near the boundary with residential properties to protect residents from car noise, and noise/disturbance during more sensitive night-time hours. This is all in accordance with policy DM1 of the Local Plan.

#### Biodiversity & River Beult SSSI

- 7.54 The applicant has reviewed historical images in order to ascertain what habitats were like in 2003. This shows that the site was used for commercial agriculture in 2003, and prior to that date there were two lakes within the Monk Lakes site, and fish farming lakes to the east. The ES considers that it is likely that habitats would have been of limited biodiversity value. The Council's aerial photography from 2003 is consistent with this and so I consider it is a reasonable conclusion that the majority of the site would have been of limited biodiversity value due to the agricultural uses. However, the site did feature field boundary hedgerows and trees which would have offered biodiversity value.
- 7.55 Whilst the development is not complete, the ES has carried out an ecological assessment of the current site which includes habitats such as semi-improved grassland, scattered trees and scrub, standing water, ditches, and emergent and ruderal vegetation around lakes. The assessment concludes that the site provides suitable habitat to support small numbers of protected species but populations are unlikely to be significant. The potential for reptiles is negligible to low, amphibians low, moderate potential for bats, and negligible potential for badgers, dormice, water vole, and otter. On this basis, the development would not have any harmful impacts upon protected species or biodiversity to warrant objection in accordance with policy DM3 and policy NE4 of the emerging NHP. Some mitigation measures are proposed in order to ensure no harm to protected species during construction.
- 7.56 Habitat retention is provided along site boundaries and enhancements in the form of new native planting including trees, shrubs and grassland areas, aquatic planting, landscape management to benefit wildlife, and enhancements to the River Beult. These landscaping measures are considered proportionate to provide biodiversity enhancement at the site.
- 7.57 KCC Ecology have assessed the application and are satisfied with the conclusions of the ES regarding protected species/habitat and advise that the precautionary mitigation measures would be acceptable which will be secured by condition.

- 7.58 With regard to the River Beult SSSI, the potential for impacts are from the introduction of non-native fish to the river and pollutants from run-off. With regard to foul water/pollutants, a 'Klargester' system will be used to treat water, with foul water being passed through the system and subsequently discharged into Puma Lake, which Natural England considers is acceptable subject to it being secured by condition. Natural England also require that surface water run-off during the construction phase be directed to Puma Lake and/or the proposed temporary settling pond in order to prevent sediments flowing into the River Beult SSSI, that surplus waters from the new lakes to be directed to Puma Lake, and that the existing fish fence is to be extended around the proposed new lakes to prevent the escape of fish to the River Beult SSSI during flood events. As with the previous decision, this will be secured by condition.
- 7.59 With regard to non-native fish escape, as the ground level lakes nearest the River Beult would be allowed to merge with the River Beult in the event of a flood (as they would provide some flood compensation) it is proposed that these lakes would not contain any non-native species (and so they would need to be removed). The fish would be translocated to the raised lakes which would not merge with the River Beult during flood events due to being at a higher level. Natural England considers this is reasonable and proportionate. The Environment Agency advises that the practice of stocking non-native fish and moving live fish between waterbodies requires full engagement with the Environment Agency fisheries team. They advise that this is a process assessed and secured through other official consenting process, outside of the planning regime and requires a permit so essentially there are separate regulations that cover this matter. The proposals are for non-native fish to be in the raised lakes which is acceptable, and the separate Regulations would protect the River Beult SSSI. Permits will also be required for any discharge of water to the River Beult from lakes or ditches. It is concluded that the development, individually or in combination with other developments, is not likely to have an adverse effect on the SSSI.

#### Other Matters

##### *Construction*

- 7.60 The development at the site has so far required significant earthworks that were carried out under a licence/permit issued by the Environment Agency. The site was subject to a Paragraph 19a Waste Exemption, originally granted in February 2004 for an estimated 1.5 million tonnes of material, and this was renewed in March 2007 for a further 1 million tonnes of material. The further soil importation to complete the development is estimated at circa 89,000m<sup>3</sup> which would require an Environmental Permit (EP), and the ES states that inert material would be used. The Environment Agency advises that it is likely that a bespoke EP would be required for the earthworks. The EP will have to be in place prior to soil importation and associated activities taking place on site. It will cover the operation of the site whilst the lakes are being constructed, cover the materials being brought onto the site, pollution prevention measures, drainage, monitoring

(gas, surface waters, noise, dust), and post-operation monitoring requirements. Significant lorry movements have taken place and further lorry movements would be required. Such movements do not have significant adverse impacts upon neighbouring amenity. Kent Highways advise that the access to the site is suitable for the proposed development and as before request limits on the times and number of movements. Times and movements were not restricted under the previous decision and I do not consider this is necessary for any highway safety reasons.

- 7.61 It is considered that the construction works to date, which were carried out under an Environment Agency licence have not resulted in any significant adverse impacts upon the local area or local amenity, and the further works required, will be subject to an EP. Nonetheless, in view of the scale of the works and proximity to residential properties, it is considered that a Construction Management Plan is appropriate in this particular case to protect amenity.

#### *Minerals*

- 7.62 Part of the site falls within safeguarding areas for 'alluvial river terrace deposits' and 'river terrace deposits' under the Kent Minerals and Waste Local Plan (KMWLP). So as to avoid sterilisation of minerals, policy DM7 of the KMWLP states that permission will only be granted for development where certain exceptions are met. The applicant's view is that mineral extraction would not be appropriate due to potential unacceptable impacts to the River Beult SSSI, flood risks issues, and noise, vibration and air quality issues for nearby dwellings.
- 7.63 The assessment here must once more only be based on the pre-development condition of the site (2003) and not take into account any impacts associated with the development currently on site. In my view, there are certainly risks of harmful impacts upon the SSSI from a potential quarry in such close proximity to the River Beult and also from noise and disturbance to nearby properties. One may argue that this has/could occur as a result of the proposed development through the extraction and importation of soil, and general earthworks but no known harm to the SSSI has occurred as a result of the development so far. Considerable assessment of the impacts of the development has been carried out by the applicant, statutory consultees, and the LPA, and mitigation as part of any planning permission, and via Environment Agency permitting controls would prevent any harmful impacts from further works at the site. To my mind it is not practicable to have quarry operations in such close proximity to the River Beult SSSI due to the potential risks to the SSSI and to a lesser degree the potential impact upon nearby residential properties. It is therefore considered that criterion 2 of policy DM7 is satisfied. KCC Minerals have been consulted and advise that there is a basis for invoking the 'exemption' to minerals extraction and it is considered that the above reasons are sufficient.

#### *Representations*

- 7.64 Matters raised that are relevant to planning and not considered above relate to concern that contaminated material has been imported to construct the lakes and this poses a health and water quality risk; whether the landscaping is compatible with reservoir safety; lack of approval under the reservoirs act; accuracy of plans and information; confusion regarding information; water quality, and the protection of property under the Human Rights Act 1998.
- 7.65 As stated above, the material imported to date was carried out under licence by the Environment Agency and the Agency at the time deemed that the materials being brought on the site were appropriate and acceptable with regards to human health and impacts upon water.
- 7.66 With regard to reservoir safety, this is dealt with under separate legislation and the Environment Agency has confirmed that there are currently no breaches under the Reservoirs Act at the site.
- 7.67 As already stated, the Council commissioned its own survey of the site and it is considered that the amended plans submitted accurately reflect what the applicant is proposing. As a significant amount of information had been submitted on the application since it was submitted in 2011, the applicant provided an amended Environmental Statement in February 2019 to provide all the relevant environmental information in one place. Since then an Environmental Statement Addendum was submitted in October, some amended plans submitted in November, and there have been a number of responses to consultees. It is considered that all the relevant environmental information can easily be found since the new Environmental Statement was submitted in February 2019, and consultations have been carried out with relevant parties.
- 7.68 In terms of water quality, as stated above, the material imported to date was carried out under licence by the Environment Agency and the Agency at the time deemed that the materials being brought on the site were appropriate and acceptable with regards to human health and impacts upon water and the environment. As such, it is not considered that any imported material would cause any significant pollution issues. Notwithstanding this, if a permit from the Environment Agency is necessary for any discharge of ground and surface water via the proposed mitigation system this separate permitting regime would adequately cover this matter.
- 7.69 With regard to the reference to the protection of property under the Human Rights Act 1998, this states that every person is entitled to the peaceful enjoyment of his possessions and no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. For the reasons outlined in the assessment above, it is considered that the proposed development, subject to suitable mitigation, would not compromise this right, or any others under the Human Rights Act.
- 7.70 In terms of the proposed landscaping on the banks of the lakes, the Reservoirs Team at the Environment Agency have advised that it isn't ideal to plant trees on embankments due to potential root penetration causing

preferential flow routes for water and falling trees causing damage. They don't advise whether this is right or wrong but state that the opinion of the Construction Engineer appointed under the Reservoirs Act should be sought. The appointed Construction Engineer has advised that the landscaping proposals are acceptable in terms of dam safety under the Reservoirs Act. On this basis, it is considered that the proposed landscaping is acceptable.

### *Alternatives*

- 7.71 The ES considers that there would be no significant adverse impacts from the proposed development, however, the EIA Regulations require an outline of the main alternatives studied by the applicant and an indication of the main reasons for the choice made, taking into account the environmental effects.
- 7.72 The ES has studied the 'do nothing' scenario and states that this would result in half completed reservoirs without mitigation. The ES considers the mitigation would provide benefits to the environment consisting of, but not limited to, landscaping, biodiversity, flood risk and hydrology. The 'do nothing' scenario actually means not carrying out the development at all, and means there would be no lakes on the site at all (rather than left uncomplete) but I agree that the creation of the lakes and landscaping would certainly provide some benefits to the environment, predominantly through biodiversity enhancement. In the absence of any significant adverse harm, I consider the 'do nothing' alternative is not a reasonable proposition. I agree that an alternative site is not realistic bearing in mind the applicant's existing lawful fishing business at the application site.
- 7.73 The ES considers alternative forms of development, and consideration of a reduced form of development has been raised by local residents. The ES considers a scheme that would not involve bringing any further imported soil onto the site. It states that Lake 1 could not be completed as proposed and so could not be used for angling purposes and so the associated recreational benefits would not arise. The ES concludes that alternative solutions would not provide the overarching benefits associated with the fully mitigated development. I do not consider the arguments for a lesser or alternative scale of development have been robustly studied, however, this does not mean that the EIA is not a valid EIA, or that permission should be refused, and in view of the totality of environmental information and the proposed development not causing any significant adverse harm, I do not consider there is a need for further assessment of alternatives.

### *Exceptional Reasons*

- 7.74 EIA case law has established that retrospective EIA development should only be granted in 'exceptional circumstances' and that an applicant should not gain an unfair advantage from a retrospective development. The previous decision was challenged on the grounds that the Council failed to consider whether the applicant gained any unfair advantage but this

challenge did not succeed. The challenge did succeed on the basis that the Council failed to consider the question of 'exceptional circumstances'.

7.75 The ES has now correctly taken 2003 (pre-development) as the baseline and assessed the development against this and the assessment carried out by LPA has been on this basis. For this reason, the applicant has had to carry out the same assessment had the development not been partly retrospectively and so no unfair advantage has been gained.

7.76 Regarding 'exceptional circumstances', the site's history and how it has come to be developed is considered to be an unusual and exceptional case. The site gained planning permission for development in the form of some raised fishing lakes in 2003. This commenced, and the importation of significant materials granted under a licence from the Environment Agency occurred to implement that permission. The Council served an enforcement notice in 2008 as this was not being carried out in accordance with the approved development. Following an appeal, the enforcement proceedings took 7 years to conclude. In the meantime planning permission was granted under this application in 2012, and the applicant implemented some of the approved works. The JR then quashed the decision in 2014.

7.77 The site history demonstrates why significant retrospective development exists at this site, which has been through a combination of two planning permissions. The first was not implemented properly but significant material was brought on site (some of which would have been necessary to implement the permission) before the Council served an enforcement notice. The second was quashed but further work was carried out prior to this. The enforcement notice requires the site to be restored to its pre-2003 condition but any action in relation to the notice has been held in abeyance by Planning Enforcement pending the outcome of this planning application. All these factors and the scale of the works involved represent unique, very unusual, and exceptional circumstances as to why a retrospective EIA application is before the Council.

7.78 In addition to this, a new Section 106 legal agreement (that is being progressed) would secure the following measures:

1. To submit an Environmental Permit (EP) application within 6 months of permission being granted;
2. To submit a landscape management plan within 1 month of permission being granted;
3. To complete the landscaping along part of the western boundary with residential properties within 6 months of permission being granted;
4. To complete the surface water and groundwater drainage mitigation along the western boundary within 9 months of permission being granted;
5. To carry out an inspection, with the Council and Kent County Council, of the surface water drainage works to demonstrate that the works have

been implemented in accordance with the approved details including a verification report;

6. To complete the flood compensation works within 12 months of permission being granted;
7. To start the soil importation within 6 months of the EP being granted;
8. To complete the soil importation within 3.5 years of the EP being issued;
9. To complete the development (excluding the clubhouse) in accordance with the approved details within 6 months of the completion of the soil importation;
10. To submit a land survey of the site to the Council to demonstrate that the development has been completed in accordance with the approved plans/details within 3 months of completion of the development;
11. A s106 monitoring fee of £1,500

(Requirements 4, 5, 10 and 11 are additional to the s106 agreement that accompanied the previous decision)

7.79 The legal agreement ensures that the applicant carries out various requirements to a timetable to ensure that the development is completed in a timely manner. In addition, it requires the applicant to verify that the development has been completed in accordance with the approved plans. In view of the scale, retrospective nature, and this being EIA development, it is considered that exceptionally, such measures are necessary and reasonable. These requirements go far beyond normal practice and it is considered that the above requirements also represent exceptional circumstances that justify the granting of retrospective EIA development in this particular case.

## **8.0 CONCLUSION**

8.01 In addition to local policies supporting the expansion of business enterprise, national policy (NPPF paragraphs 80 & 83) indicates that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs. It also indicates that planning decisions should enable the development of land-based rural businesses and sustainable rural leisure developments which respect the character of the countryside.

8.02 For the reasons outlined above it is considered that the development, subject to the mitigation outlined and controlled by condition, would not cause any harm to the landscape or visual amenities of the area, heritage assets, residential amenity, biodiversity or the River Beult SSSI, and impacts relating to flood risk, surface water drainage, and groundwater drainage can be suitably mitigated. On this basis, the development is in accordance with the relevant policies of the Development Plan, the NPPF,



and relevant policies in the emerging Marden Neighbourhood Plan. I have also considered carefully all representations made in reaching this conclusion.

8.03 There are considered to be exceptional reasons for granting retrospective permission, namely the exceptional circumstances surrounding the history of the retrospective development, and the comprehensive legal agreement that would ensure the development is completed and verified, and the applicant has clearly not gained an unfair advantage because this is retrospective development.

8.04 For these reasons, permission is recommended subject to a legal agreement and the following conditions.

## **9.0 RECOMMENDATION**

Subject to the prior completion of a legal agreement to provide for the Heads of Terms set out below and subject to the conditions as set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION**, and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

### Heads of Terms:

1. To submit an Environmental Permit (EP) application within 6 months of permission being granted;
2. To submit a landscape management plan within 1 month of permission being granted;
3. To complete the landscaping along part of the western boundary with residential properties within 6 months of permission being granted;
4. To complete the surface water and groundwater drainage mitigation along the western boundary within 9 months of permission being granted;
5. To carry out an inspection, with the Council and Kent County Council, of the surface water drainage works to demonstrate that the works have been implemented in accordance with the approved details including a verification report;
6. To complete the flood compensation works within 12 months of permission being granted;
7. To start the soil importation within 6 months of the EP being granted;
8. To complete the soil importation within 3.5 years of the EP being issued;

9. To complete the development (excluding the clubhouse) in accordance with the approved details within 6 months of the completion of the soil importation;
10. To submit a land survey of the site to the Council to demonstrate that the development has been completed in accordance with the approved plans/details within 3 months of completion of the development;
11. A s106 monitoring fee of £1,500

Conditions:

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

PDA-MON-101	(Site Location Plan)
0183-04/02 Rev H	(Proposed Site Layout)
0183-04/03 Rev D	(Proposed Landscaping Plan)
0183-04/04 Rev B	(Proposed Clubhouse and Car Park Layout)
0183-04/05 Rev B	(Clubhouse - Proposed Floor Plans & Elevations)
0183-04/06 Rev A	(Vehicular Access Point)
0183-04/07	(Flood Compensation Plan)
2675/ML/G	(Flood Compensation Plan)
5881 3D-F XSections	(Proposed Cross Sections Sheets 1 to 3)

Reason: For the purpose of clarity, and to ensure a satisfactory appearance to the development and impact upon residential amenity.

2. Prior to the importation of any material, a Construction Management Plan and Code of Construction Practice shall be submitted to and approved in writing by the local planning. The approved details shall be fully implemented. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003) unless previously agreed in writing by the Local Planning Authority.

The code shall include:

- a) An indicative programme for carrying out the works
- b) Measures to minimise the production of dust on the site(s)
- c) Measures to minimise the noise (including vibration) generated by the construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)
- d) Measures to minimise light intrusion from the site(s)
- e) Management of traffic visiting the site(s) including temporary parking or holding areas
- f) Provision of off road parking for all site operatives
- g) Measures to limit the transfer of mud and material onto the public highway
- h) The location and design of site office(s) and storage compounds

Reason: In view of the scale and length of time to carry out the development and in the interests of highway safety and local amenity.

3. Prior to the importation of any material or the carrying out of any further development, the detailed design of the groundwater interceptor drain shall be submitted to and approved in writing by the Local Planning Authority. The detailed design should be supported by site-specific data, calculations, and justified assumptions that fit with the established hydrogeological conceptual site model and shall include the following:
  - a) Detailed construction drawings showing all elements of the groundwater and surface water drainage system;
  - b) Calculations of the anticipated volume of groundwater to be intercepted by the system.
  - c) Sensitivity testing of the design to allow for uncertainties, including aquifer thickness and permeability, hydraulic gradient and future increases in groundwater level (e.g. due to climate change).
  - d) Confirmation (where possible) of the elevations of relevant off-site receptors.
  - e) A narrative explaining the operating assumptions behind the design, including how the groundwater drainage system would interact with the site surface water system and discharge to the river under a range of groundwater level and river stage conditions. This should be supported by hydrogeological cross-sections illustrating the conceptual site model.
  - f) A maintenance plan for the groundwater interceptor drain and surface drainage ditch, to ensure its long-term integrity and functionality. This should identify who is responsible for maintenance and a means of demonstrating that the plan is being adhered to.
  - g) Demonstration that the design will resist long-term threats to its integrity and effectiveness, such as climate change, settlement, further developments at the site, etc.

The scheme shall be completed in accordance with the approved details.

Reason: To protect neighbouring properties against potential groundwater level impacts.

4. Prior to the importation of any material or the carrying out of any further development, the following details shall be submitted to and approved in writing by the Local Planning Authority:
  - a) A site inspection and groundwater level monitoring plan, to be implemented during construction of the groundwater interceptor drain and associated works, to verify that site conditions are consistent with the established hydrogeological conceptual site model and design assumptions. This should include a protocol for responding to any deviations that would impact on the effectiveness of the approved design, and reporting these to the Local Planning Authority.

The groundwater level monitoring data shall be collated for submission to the Local Planning Authority in a verification report, upon completion of

the groundwater interceptor drain works. The verification report shall also include the following information:

- i) Photographs of the excavations before and after placement of the drainage system components;
- ii) As-built drawings showing the surveyed elevations of installed drainage system components.

Should any deviations from the established hydrogeological conceptual site model or design assumptions be identified, the contractor shall cease works and agree any proposed alterations to the design with the Local Planning Authority in writing, prior to their implementation.

Reason: To protect neighbouring properties against potential groundwater level impacts.

- 5. Prior to the importation of any material or the carrying out of any further development, the detailed design of the surface water drainage system, which shall be based on the strategy presented in Drawing 29431/001/SK03 prepared by Peter Brett Associates (3 July 2015), shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved details.

Reason: To mitigate any flood risks associated with surface water.

- 6. Prior to the importation of any material, details of any boundary treatments and their implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

- 7. Prior to the importation of any material or the carrying out of any further development, details of catch fences to prevent fish from entering the river system in times of flood shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the River Beult SSSI.

- 8. Any surface water run-off during the construction phase shall be directed to Puma Lake and/or the proposed temporary settling pond as outlined in the 'Water Resources Management Strategy' (22/03/12).

Reason: To ensure sediment does not flow into the River Beult SSSI.

- 9. All surplus water from the new lakes shall be directed to Puma Lake as outlined in the 'Water Resources Management Strategy' (22/03/12).

Reason: To ensure sediment does not flow into the River Beult SSSI.

10. Prior to the importation of any material or the carrying out of any further development, a Construction Environmental Management Plan relating to biodiversity (CEMP Biodiversity), that shall follow the precautionary mitigation measures detailed in section 5.10 to 5.17 of the ecological report (Preliminary Ecological Appraisal (Phlorum Ltd, August 2017)), shall be submitted to and approved in writing by the local planning authority. The CEMP Biodiversity shall include the following:
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

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

Reason: In the interests of protecting biodiversity.

11. The development of the clubhouse shall not commence above slab level until samples of the timber cladding and clay roof tiles to be used in the construction of the external surfaces of the building 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.

12. In addition to the requirements of the Section 106 Agreement, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in full in the first planting season following the completion of lakes 1, 2 and 3, and prior to any use of any part of lakes 1, 2 and 3. Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

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

13. The development shall be carried out in accordance with the River Beult Habitat Enhancement Scheme received on 10/11/11.

Reason: To ensure appropriate biodiversity enhancements.

14. All vehicular access for the importation of material, vehicles for the re-profiling of the lakes and the embankments, and the implementation of the planting proposals, shall use the spur off the existing access directly off the A229 (Staplehurst Road), as shown on drawing number 0183-04/06 RevA (Vehicular Access Point).

Reason: To protect the amenities of adjoining residents and in the interest of highway safety.

15. The clubhouse shall be constructed with its finished floor level no lower than 17.36m AOD and with access as shown on drawing no. 0183-04/05 RevB.

Reason: To protect the building and occupants in the event of a flood.

16. Once the approved parking/turning areas have been implemented they shall thereafter 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/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

17. The development hereby permitted shall be used for recreational angling and purposes ancillary only.

Reason: An unrestricted use could cause harm to the residential amenity of neighbours and the character and amenity of the countryside.

18. No angling shall take place between the hours of 10pm and 8am within the areas hatched and annotated on Layout Plan 0183-04/02 Rev H.

Reason: To protect the nearby residents from noise and disturbance at such times.

19. No parking in connection with angling shall take place within the areas hatched and annotated on Layout Plan 0183-04/02 Rev H.

Reason: To protect the nearby residents from noise and disturbance.

20. All access will be via the existing consented access directly from the A229 and there shall be no vehicular or pedestrian access to the site from Hertsfield Lane.

Reason: To protect the amenities of adjoining residents.

21. The clubhouse shall not be used for any overnight accommodation.

Reason: To prevent danger to human life in the event of a flood and to prevent inappropriate residential accommodation.

22. The clubhouse hereby approved shall be used for purposes ancillary to the use of the site for recreational angling and for no other purpose.

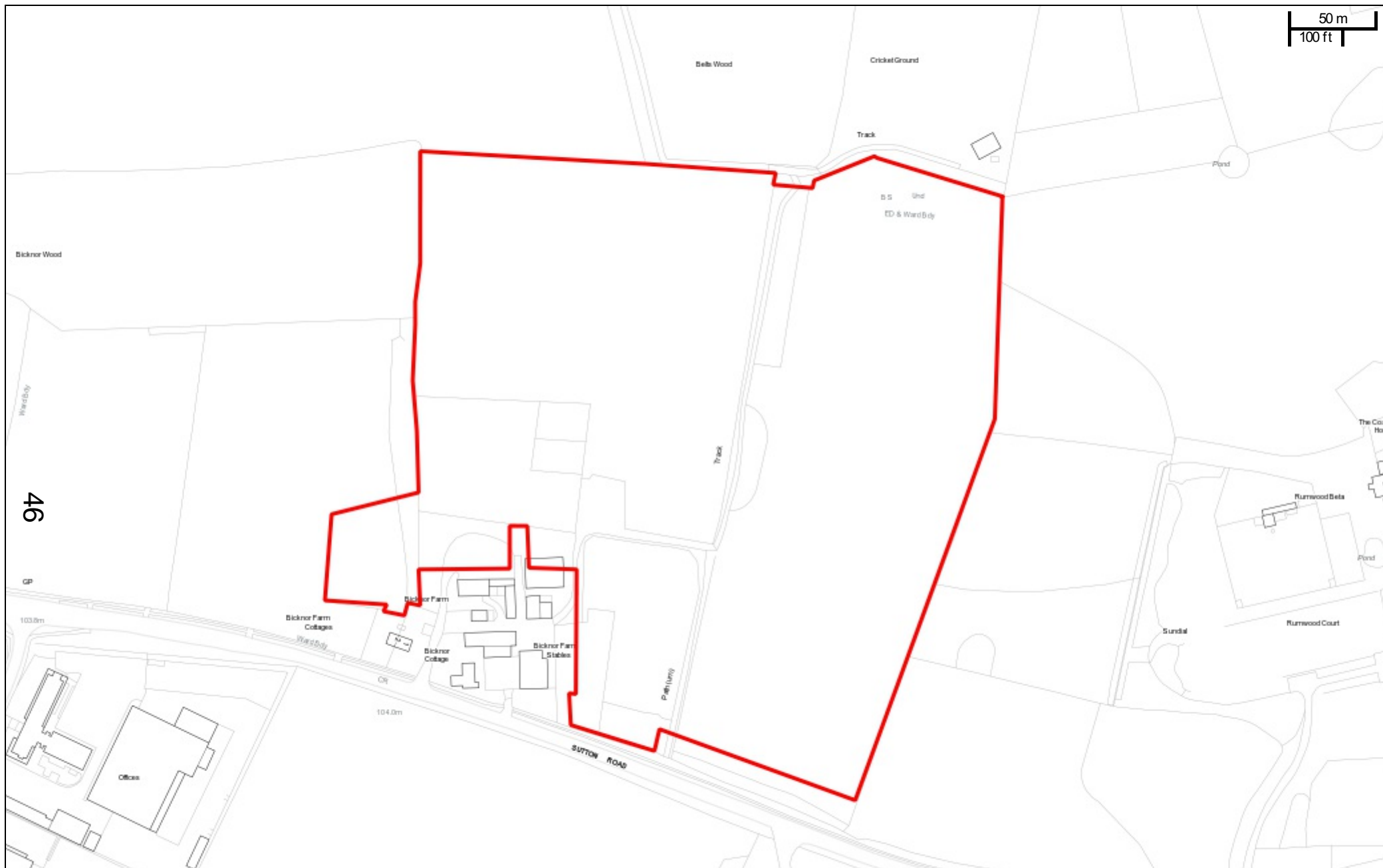
Reason: An unrestricted use could potentially cause harm to the residential amenity of neighbours and the character and amenity of the countryside.

23. No lighting shall be installed on the site without prior written consent from the Local Planning Authority.

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

24. Any foul water shall be passed through a Klargestar system, which is to discharge to Puma Lake as set out in the 'Phlorum' letter dated 20<sup>th</sup> May 2019, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent harm to the River Beult SSSI.



19/503912/FULL - Land at Bicknor Farm

Scale: 1:3000

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<b>REFERENCE NO - 19/503912/FULL</b>			
<b>APPLICATION PROPOSAL</b> Development of the site with 302 dwellings, parking, access, amenity space, landscaping and associated works.			
<b>ADDRESS</b> Land At Bicknor Farm, Sutton Road, Langley, Kent, ME17 3NG			
<b>RECOMMENDATION – APPROVE WITH CONDITIONS</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>The site is allocated for 335 houses within the Local Plan under policy H1(9) subject to criterion.</li> <li>The application proposes 302 houses and for the reasons outlined in the report complies with the criterion under policy H1(9) subject to the legal agreement and conditions.</li> <li>KCC Highways are raising objections on the basis of an unacceptably severe traffic impact on the A274 corridor. For the reasons outlined in the report the Local Planning Authority does not agree, and the objections are not considered to be reasonable grounds to refuse planning permission.</li> <li>The application complies with site policy H1(9) and all other relevant Development Plan policies. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions set out below.</li> </ul>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> <ul style="list-style-type: none"> <li>The recommendation is contrary to the view of Kent Highways (statutory consultee).</li> </ul>			
<b>WARD</b> Downswood And Otham	<b>PARISH COUNCIL</b> Otham	<b>APPLICANT</b> Redrow Homes South East <b>AGENT</b> Urbanissta	
<b>DECISION DUE DATE:</b> 14/02/20	<b>PUBLICITY EXPIRY DATE:</b> 13/01/20	<b>SITE VISIT DATE:</b> 30/08/19 & 17/12/19	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
16/503775	Residential development of 271 dwellings including 30% affordable housing, access and associated infrastructure (resubmission of 14/506264/FULL)	APPROVED	19/01/17
14/506264	Residential development of 271 dwellings including 30% affordable housing, access and associated	WITHDRAWN	16/05/16

	infrastructure		
14/500532	EIA Screening Opinion - Residential development of 335 new dwellings, associated access, landscaping and open space	EIA NOT REQUIRED	

## **1.0 DESCRIPTION OF SITE**

1.01 The application site has an area of approximately 10.6ha and is to the north of Sutton Road. The site is to the southeast of Maidstone and is between housing under construction to the north, and housing recently completed to the west and south which were all housing site allocations in the Local Plan. To the northeast is a cricket ground and to the east open fields with 'Rumwood Court' beyond. There is an area of Ancient Woodland (AW) adjoining the northwest boundary and a block of woodland to the north. These woodland areas are protected under Tree Preservation Orders as are a line of trees within the centre of the site and other individual trees. Bicknor Farmhouse a GII listed building is to the south of the site, surrounded by its associated farm buildings, and Rumwood Court is GII listed around 270m to the east. Public Right of Way (PROW) KM94 runs from north to south down the centre of the site.

1.02 The site made up of open grassed fields split down the middle from south to north by a farm track flanked by hedging for the southern half, and a line/group of trees for the northern half. It includes a large area of hard surfacing that fronts Sutton Road associated with Bicknor Farm, and wraps around the rear of the Bicknor Farm complex. There is a small section in the southwest corner that adjoins the rear of 1 & 2 Bicknor Farm Cottages. The boundary with Sutton Road is mainly open by the 'Langley Park' roundabout but features a row off tall lime trees to the east. The west boundary has woodland, the north has hedges and woodland, and the east boundary has a grey palisade fence along its entirety, which is outside the application site and the applicant's control. The site gently slopes down by around 2m from the front (south) to north.

1.03 Importantly, the site is allocated for housing development in the Local Plan with policy H1(9) allowing up to 335 houses subject to a number of criterion.

## **2.0 BACKGROUND/PLANNING HISTORY**

2.01 Full planning permission was granted at the site for 271 houses in January 2017 under application 16/503775. This permission expires on 19<sup>th</sup> January but is a material consideration.

2.02 Following the grant of that permission the site was allocated for 335 houses under policy H1(9) when the Local Plan was adopted in October 2017.

## **3.0 PROPOSAL**

3.01 This application seeks full permission for 302 houses with access off the roundabout immediately south of the site on Sutton Road, and pedestrian/cycle links to the west and north. A range of detached, semi-detached, and terraced houses are proposed and a number of apartment blocks to provide a mix of house types and sizes. Affordable housing would be provided at 30% (91 units). Houses would be 2 storeys in height with the apartment blocks at 3 storeys. Building designs are 'traditional' in style in terms of their height, form and appearance. Areas of open space are provided throughout the site with the main area running through the centre. The design and layout will be discussed in more detail in the assessment below.

3.02 The previous permission also took access of the roundabout, had a similar range of housing sizes including apartment blocks of 2-3 storey heights, was of a similar 'traditional' design style, and with 30% affordable housing. The main difference is that 32 more houses are proposed.

#### **4.0 POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP3, SP18, SP19, SP20, SP23, H1, ID1, H1(9), DM1, DM2, DM3, DM4, DM6, DM8, DM12, DM19, DM20, DM21, DM23
- Kent Waste and Minerals Plan 2016
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maidstone Building for Life 12
- MBC Air Quality Guidance
- MBC Public Art Guidance

#### **5.0 LOCAL REPRESENTATIONS**

5.01 **Otham Parish Council:** Originally raised no objections but following re-consultation raise objections and make the following (summarised) points:

- Concern that too many houses are being built on the already overloaded A274 Sutton Road. Appropriate infrastructure needs to be in place BEFORE more vehicles add to the congestion.
- Rat running through villages will be exacerbated using roads that were never intended for the volume of traffic they are experiencing.
- Affordable dwellings should be spread more evenly throughout the proposed development, rather than heavily concentrated in two corners and every road should have a mix of housing.
- More needs to be done to address the health risks/anti-social behaviour associated with dog fouling.
- Consideration should be given to upgrading PROW KM94 north of the site to make it suitable for pushchairs and wheelchairs.
- The developer should afford the Cricket Club fencing as a security measure.

**5.02 Bearsted Parish Council:** Raises objections for the following (summarised) reasons:

- Development will exasperate an already congested road network and impact will be severe.
- Junctions are over capacity and KCC have not been able to come up with any solution, remedial or mitigating actions.
- There will be extensive queuing.
- Roads are over capacity and safety records will worsen.
- Poor air quality.
- Bus service is poor.

**5.03 Local Residents:** 4 representations received raising the following (summarised) points:

- Increased traffic and congestion.
- Highway safety.
- Harm to the landscape.
- Should be less housing.
- Link to the housing estate to the west would place a burden on the management costs to residents from the extra usage and harm amenity.
- Lack of infrastructure.
- Impact on air quality.
- Poor public transport.
- Lack of parking.
- Rat running occurs on local roads.

## **6.0 CONSULTATIONS**

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

**6.01 Highways England: No objections.**

**6.02 Natural England: No objections.**

**6.03 KCC Highways: Raise objections** on the basis of an unacceptably severe traffic impact upon the A274 corridor.

**6.04 KCC Economic Development:** Consider that under CIL the proposals would fail to support the requisite community infrastructure required to mitigate the impacts of the development. Consider that monies towards primary education (£1,643,575) should be sought via Section 106 with the remainder CIL.

- 6.05 **KCC SUDs: No objections** subject to conditions.
- 6.06 **KCC Archaeology: No objections** subject to condition.
- 6.07 **KCC PROW: No objections** subject to moving the SUDs basins away from the diverted path or changing the route of the path.
- 6.08 **KCC Ecology: No objections** subject to conditions.
- 6.09 **KCC Minerals: No objections**
- 6.10 **MBC Conservation Officer: No objections.**
- 6.11 **MBC Environmental Health: No objections** subject to conditions relating to noise; charging points; lighting; and contaminated land.
- 6.12 **MBC Landscape Officer: No objections.**
- 6.13 **MBC Parks Team:** Requests £331,850 towards Senacre Recreation Ground (also known as Senacre Field) to be spent developing, refurbishing or maintaining the site. Expenditure may include professional and other fees and investigative works and studies reasonably incurred and or undertaken by the Borough Council.
- 6.14 **Southern Water:** Provide advice on pumping stations and advise that upgrades to the sewer network will be required and request a condition.
- 6.15 **Kent Fire & Rescue: No objections.**

## **7.0 APPRAISAL**

- 7.01 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that,
- "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."***
- 7.02 The Local Plan allocates the site for 335 houses under policy H1(9) subject to a number of criterion covering matters relating to design and layout, access, noise, air quality, open space, infrastructure, highways and transportation.
- 7.03 This is a full application for 302 houses and clearly the principle of housing is accepted under Local Plan policy H1(9), so it needs to be assessed as to whether the proposals comply/can comply with the policy criterion and any other relevant Development Plan policies.
- 7.04 The key issues for the application, which are centred round site allocation policy H1(9), are as follows:

- Access and connectivity.
- Layout, design, appearance, landscaping and open space.
- Highways impacts.
- Infrastructure.
- Other matters including air quality, drainage, ecology, and amenity.

7.05 The revised NPPF has a chapter dedicated to design (12- Achieving Well-designed Places) and there is specific reference to the design framework 'Building for Life 12'. This application has been developed and assessed against Maidstone's own version of this.

#### Access and Connectivity

7.06 Policy H1(9) states:

- 5. Access will be taken from the A274 Sutton Road**
- 6. Pedestrian and cycle access will be taken through site H1(6), and to site H1(7).**
- 4. Public footpath KM94 will be retained and improved, continuing the link between Sutton Road and White Horse Lane.**
- 14. Connections to the existing cycle network from Park Wood to the town centre, and by upgrading the PROW network to accommodate cycles.**

7.07 The application proposes access off the roundabout outside the site through creating a fourth arm into the site which has been the subject of an independent safety audit and to which KCC Highways raises no safety or capacity objections. The access would require the removal of some hedging and low quality trees but the landscaping scheme includes new tree planting at the entrance. The access would include a 3m wide shared pedestrian and cycle path across the site frontage with widening of the existing pavement to the west as far as is possible to link with the toucan crossing further west. A pavement link is then proposed on the south side of Sutton Road from the toucan crossing to the Parkwood Industrial Estate. These measures will all be secured by condition and provide good connectivity and access for pedestrians and cyclist on Sutton Road to link to the existing pedestrian and cycle network.

7.08 A link is proposed to the edge of site H1(6) to the west, which is now a completed and occupied housing scheme. The adjoining land is not in the ownership of the applicant and so the new path can only be provided up to the boundary of the application site. A pedestrian/cycle link is also proposed to the north to site H1(7) which is currently under construction, and would link up with the approved pedestrian/cycle route for that development. Another pedestrian connection would link up with PROW KM94 to the north. This provides connectivity to neighbouring housing estates and the PROW.

- 7.09 It is proposed to retain but alter the line of public footpath KM94 so that it runs along the entrance road and then up through the proposed central green corridor on a dedicated surfaced path. This would be subject to a separate formal diversion process, however, KCC have advised that the proposed route is suitable and welcome the section running through the open space. They have raised some concerns regarding the potential for SUDs basins near to the route and the applicant has confirmed that this can be changed through the detailed design of the SUDs scheme or the path could be altered slightly which can be dealt with by condition. The proposed route will ensure the PROW is retained through the development and it will be enhanced through hard surfacing in accordance with criterion 4.
- 7.10 So overall, the vehicular access point complies with policy H1(9) and is safe, and the scheme provides good pedestrian and cycle connectivity to adjoining housing sites, and the local area and amenities, in accordance with policy DM1 of the Local Plan and as advocated by 'Maidstone Building for Life 12'.

Layout, Landscaping and Open Space.

- 7.11 Policy H1(9) requires:

- 1. An undeveloped section of land will be retained on the eastern part of the site to protect the parkland setting of Rumwood Court.**
- 2. The provision of a 15m metre landscape buffer along the site's western boundary adjacent to the ancient woodland at Bicknor Wood.**
- 3. Development should be sited in order to preserve the setting of the listed buildings, Bicknor Farmhouse, in the south west corner of the site, and Rumwood Court to the east.**
- 9. Provision of a minimum of 1.23ha of open space.**

- 7.12 As stated above, there is a palisade fence which runs along the east boundary of the site. This looks poor but is outside the control of the applicant. Therefore a landscape buffer between the rear garden fences of houses of around 5m in width was negotiated in order to provide a landscaped edge to the site, which would also in time provide some softening of the palisade fencing. This also provides an undeveloped section of land in accordance with criterion 1.

- 7.13 The 15m buffer to the ancient woodland is provided on the west edge of the site with only a pedestrian/cycle link in the northwest corner encroaching as this is where the path on the site to the north links to the site. This is in accordance with criterion 2.

- 7.14 The development extends up to the edge of the Bicknor Farm complex. The Grade II listed 'Bicknor Farmhouse' fronts Sutton Road and is surrounded by farm buildings on its north and east sides. For this reason, the development would not harm the setting of this listed building, a view echoed by the Conservation Officer. The site is some 270m west of the Grade II listed 'Rumwood Court' and at this distance, and with mature trees

between, the development would not harm its setting. This is in accordance with criterion 3.

- 7.15 More generally, the layout is built around the existing green corridor which runs from south to north through the centre of the site through the established hedge over the south part, and the line of mature protected trees for the northern half. The layout retains the established hedge line which would run along the east side of the entrance road. This would open onto a central area of open space that would feature public art which would provide a wayfinding feature and sense of arrival in the centre of the site as advocated by 'Maidstone Building for Life 12'. The open space would continue as a spine up through the site where the mature protected trees would provide an attractive vista to the north. A green corridor would also be provided from the ancient woodland to the west linking up with central space, and a corridor would also run to the east edge of the site. These green spaces provide corridors on the edges of the site and links through it, and in utilising the positive landscape features of the site serve to create a distinctive place as advocated by 'Maidstone Building for Life 12'.
- 7.16 The built layout is made up of perimeter blocks of housing to ensure active streetscenes. The site entrance would feature ragstone walling either side to create a sense of arrival. Detached houses would face the entrance and new hedging alongside the entrance road would complement the established hedge on the opposite side. An avenue of street trees linking to the central open space would contribute to an attractive entrance.
- 7.17 The west and northwest parts of the site would be built at a higher density, with more terrace houses and apartments, these being the areas that adjoin existing housing sites, rather than bordering countryside. Landscaped front gardens and street trees would provide interest and the green corridor from the ancient woodland would provide breathing space. The eastern part of the site would be at a lower density with more detached properties and a more 'rural' feel with some shared surface streets. There would also be a small area of open space around a protected tree. In the southeast corner, buildings would be set well back from the line of tall lime trees along the frontage. Generally, the layout provides strong street scenes with houses addressing all roads, and buildings turning corners with architectural detailing and/or windows.
- 7.18 Landscaping includes native street trees of more compact and upright form including field maple, flowering cherry, and lime. Native tree planting with understorey native shrubs and wildflower mixes would be provided within the green corridors to provide a biodiversity network as well as visual interest. The ancient woodland buffer would be planted up with native woodland mixes to extend the woodland buffer. The central green would be more formal with mown grass to provide a useable area surrounded by trees and native hedging. Generally there would be a high proportion of native species but also flowering non-native species known to benefit wildlife and provide interest. Overall, I consider the species are appropriate and the amount of planting will provide an attractive setting to the development and benefit biodiversity.



- 7.19 With regard to trees, many of which are protected, no Category A trees would be removed for the development. Of the trees to be retained, in the instances where the development (mainly roads and paths) encroaches into root protection areas, a 'no-dig' form of construction is proposed. The landscape officer has reviewed the Arboricultural Impact Assessment and Method Statement and raises no objections subject a condition requiring compliance with the reports, and the tree retention and protection plans.
- 7.20 In terms of open space, criterion 9 requires a total of 1.23ha to be provided for the development and the layout provides in excess of this at around 1.8ha. This includes a mix of natural/semi-natural space mainly around the edges and through parts of the green corridors, a more formal central space, and a young children's play area towards the southeast corner. Other play areas also are accessible on neighbouring houses estates. It is noted that the Parks team have requested monies towards off-site open space. Notwithstanding that the scheme provides a good amount of on-site open space which is in excess of the site policy requirement, any off-site mitigation of existing open space would need to be sought via the Community Infrastructure Level (CIL).
- 7.21 Overall, the layout is considered to use the positive landscape features of the site well and builds upon them with new green corridors across the site to create a unique character in accordance with policy DM1 of the Local Plan and 'Maidstone Building for Life 12'. The landscaping scheme is of good quality and a range of open space areas are provided. For these reasons, it is considered that the layout is of a good quality and meets the requirements of policy H1(9) and DM1 of the Local Plan.

#### Design & Appearance

- 7.22 The house designs are similar to those used by the developer on the scheme immediately to the west. This being 'traditional' detached, semi-detached, and terrace houses with gabled and hipped roofs. Interest would be provided through plinth brick banding, soldier courses, a range of porches, and two storey bay windows on some properties. Terrace rows would have fully hipped roofs to reduce their mass and gabled porches to break up their fronts. The apartment blocks would be three storeys in height but their mass would be broken up with projecting gables set down from the main ridge lines, bay windows, different materials, and fenestration on all elevations to provide relief.
- 7.23 Materials would include multi-stock bricks, concrete roof and hanging tiles, and render on some properties. The use of clay roof and hanging tiles has been negotiated on those houses at the entrance through to the central green, and surrounding the green, to provide a higher quality material in the most prominent parts of the site. Timber boarding would also be used on some gables for porches and houses. Ragstone would also be used in walling at the entrance and along some of the open space areas which would introduce a high quality vernacular material.
- 7.24 The main roads would be tarmac, but some junctions, and roads around the central open space would be block paved. Block paving would also be used

for shared driveways, along the central green corridor, and for the vast majority of parking spaces. The pathways through the central open space area would be self-binding aggregate which would provide a sympathetic 'rural' finish. Boundary treatments include the ragstone walls at the entrance and along some areas of open space, brick walls on exposed boundaries, and low picket fencing enclosing front gardens of properties around the central green to create character. Timber post and rail fencing would enclose the central green corridor again providing a more 'rural' character.

### Highways Impacts

#### *Wider Network/Strategic Junctions*

- 7.25 The Local Plan examination process which led to the adoption of the Local Plan in October 2017 involved the Local Plan Inspector considering, in great detail, the highways impacts and mitigation for the southeast Local Plan sites (which includes the application site), including objections/representations from statutory consultees and third parties. This involved carefully considering evidence provided by the Council, including the A274 Corridor Study, and the specific mitigation being a number of junction improvements on the A274, bus priority measures and bus service improvements (monies towards some of which had already been secured under planning permissions). The Local Plan Inspector was satisfied that the Council's evidence demonstrated the traffic impact of the Local Plan sites could be suitably mitigated, and in his Final Report concluded,

*"169. The development proposals in the submitted plan already incorporate measures to mitigate the travel impacts. These include highway capacity improvements and improved bus services (including direct links to railway stations). If these measures are further supported by the bus access and bus priority measures, the impacts on congestion need not be severe. Air quality issues are capable of being addressed by these and other measures, including by action at national level.*

*170. In conclusion the Policy SP3 South East Maidstone Strategic Development Location will generate additional traffic and could contribute to an increase in congestion, particularly at peak hours, even after mitigation in the form of road improvements and other measures to make sustainable travel more attractive and effective. However the concentration of development close to the town does allow alternative and more sustainable means of travel to be made available. That is less likely to be the case were the housing to be located away from the town in another part of the Borough where residents would still need access to employment and services in the town."*

- 7.26 The adopted Local Plan therefore includes strategic highways improvements to mitigate the impact of traffic for the southeast Maidstone sites, and relevant to this application, they are outlined under the site allocation policy (criterion 10-15).

- 7.27 The application site and the extant permission for 271 houses was included within the cumulative transport assessments carried out under the planning applications for the strategic southeast housing sites H1(7) - Land North of Bicknor Wood, H1(8) - West of Church Road, Otham, and H1(10) - Land South of Sutton Road, within the Local Plan. Permission for 271 houses was granted at the application site in 2017 and permission was granted on sites H1(7) and H1(10) in early 2018. The transport assessment cumulatively assessed all the southeast housing allocations and also included other commitment development (planning permissions at the time).
- 7.28 Under those applications, the Council accepted that the cumulative impact of development from all the southeast housing allocations could be suitably mitigated with improvements to the capacity of various junctions and improvements to bus services. Being prior to the introduction of CIL, financial contributions were secured under Section 106 agreements towards various off-site highways works/improvements which are outlined in the Council's Infrastructure Delivery Plan (IDP), where the total infrastructure costs and funding streams are stated.
- 7.29 Decisions to approve permission at Planning Committee at the application site, and on sites H1(7) and H1(10) with financial contributions towards infrastructure were made prior to the adoption of the Local Plan in September 2017. The Local Plan Inspectors Final Report and adoption of the Local Plan confirmed that the Council's approach to mitigating the transport impact of the southeast development sites is sound.
- 7.30 For the current application, the applicant relies upon the recent cumulative assessment of transport impacts carried out for sites H1(7) and H1(10) and the mitigation (which included 271 houses at the application site). These assessments (which the Council agreed with) concluded that the cumulative traffic impact upon the local network (including the application site) would not be severe subject improvements to relevant junctions and public transport. This is considered to remain an appropriate approach and there are no reasonable grounds to now disagree or depart from this approach that has been accepted recently by the Council. The applicant has however assessed the impact from the additional 31 houses beyond the previous planning permission and assessment. The applicant's evidence shows that the impact of an additional 31 houses would result in minimal impacts on A274 junctions beyond the previously approved development, which is to be expected. It is also important that the site allocation which was found to be sound by the Local Plan Inspector is actually allocated for up to 335 dwellings and the proposals falls well below this.
- 7.31 The site allocation policy at criterion (10-15) relating to strategic highways and transportation improvements states as follows:
- 10. Bus prioritisation measures on the A274 Sutton Road from the Willington Street junction to the Wheatsheaf junction, together with bus infrastructure improvements.**
- 11. Improvements to capacity at the junctions of Willington Street/Wallis Avenue and Sutton Road.**

**12. Package of measures to significantly relieve traffic congestion on Sutton Road and Willington Street.**

**13. Improvements to capacity at the A229/A274 Wheatsheaf junction.**

**15. Improvements to frequency and/or quality of bus services along A274 Sutton Road corridor.**

7.32 The above improvements are based on the cumulative impact of development in southeast Maidstone and so compliance with the above criterion would be via monies towards the improvements. A change in circumstances since the previous decisions is the introduction of the Council's Community Infrastructure Levy (CIL), such that any monies towards strategic highways works required from cumulative transport impacts would be via CIL rather than financial contributions under a section 106 agreement. The applicant will have to pay CIL should planning permission be granted and implemented, and the Council can decide to use monies for the relevant highways improvements. This ensures compliance with the strategic highways requirements under the site policy.

7.33 Although none of the above improvements have commenced and clearly a number of the southeast sites are completed and occupied/part-occupied or under construction, the delivery of highway improvements is not the responsibility of the Local Planning Authority (LPA) or the applicant. The LPA can secure improvements via monies, CIL, or planning conditions (and has done so) but it is the responsibility of the Highways Authority to implement highways works. Therefore the LPA cannot withhold planning permission because highways works have not been delivered.

7.34 KCC Highways has been consulted on the application and has maintained its position of raising strong objections on the basis that the cumulative traffic impact on the A274 will be unacceptably severe referring to the A274 Sutton Road/Willington Street/Wallis Avenue Junctions, the A229/A274 Wheatsheaf Junction and the A274 Sutton Road/St. Saviours Road Junction. They consider the applicant has not demonstrated the impact can be fully mitigated and consider the residual traffic impact on the network is severe. They state,

*"This planning application proposes large scale residential development in a location on the south eastern periphery of the Maidstone built-up area. The site lies remote from many of the key transport networks and journey destinations, including the town centre, railway stations and M20 motorway, in an area that is already experiencing substantial growth through planned new development. These characteristics limit the scope for local journeys to be undertaken by means other than the private car. They also influence the increase in traffic movements likely to occur on the congested south eastern A274/A229 corridor into Maidstone, where there is already extensive queuing and delay over prolonged periods.*

*Planning permission 16/503775 was granted against the advice of KCC Highways and the uplift in development scale now proposed will result in a further cumulative impact on traffic conditions. The applicant has not demonstrated that this impact can be fully mitigated.*

*Accordingly, the residual traffic impact on the A274 will be unacceptably severe and KCC Highways strongly object to the development proposals on this basis."*

- 7.35 Essentially, the Highways Authority does not consider that the junction and public transport improvements outlined in the Local Plan, and to which monies have been secured, are sufficient to mitigate the impact of the development. This is the same position that was taken under the previous planning application, other applications in South East Maidstone, and at the Local Plan Inquiry by the Highways Authority. So this argument has been tested through planning applications and importantly through an Examination in Public. As outlined above, the mitigation measures are considered sound and are within the adopted Local Plan, and have been accepted by the Council on all planning applications for the southeast Maidstone allocated sites. On this basis, it is considered that the Highway Authorities objection is not reasonable grounds to refuse planning permission and could not be defended at appeal.

#### *Public Transport*

- 7.36 As outlined above, the development would have to pay CIL and these monies can be used towards the public transport measures outlined under the site allocation policy and within the Infrastructure Delivery Plan should the Council decide (bus priority measures and investment in bus services). New bus stops provided by recent development are located on Sutton Road around 80m west of the site entrance and so easy access to bus services is available.
- 7.37 The applicant has also provided a Travel Plan for the development aiming to reduce car usage and encourage public transport use, walking, and cycling and its aims are proportionate for this site and its location. This can be secured by condition and a monitoring fee of £948 will be secured under a section 106 agreement.

#### *Other Highways Matters*

- 7.38 Despite advising the applicant that there is no prescriptive requirement for a separate emergency access at pre-application stage, KCC have now raised this as an issue, although this does not form part of their objection. I have sought views from Kent Fire & Rescue who have stated they cannot advise on this and consider it is dealt with by the Kent Design Guide, which seeks a secondary emergency access for major access roads. The applicant's view is that the 6.75m carriageway at the entrance combined with a 2m verge and 2m footway one side, and a 2m verge and 3m shared cycle/footway on the other side, provides ample room for emergency services to manoeuvre past any potential obstruction on the main carriageway. I agree there is a large amount of room available and so do not consider a separate entrance is necessary, and also consider it would compromise the appearance of the entrance to the site, which would effectively have two entrances close to one another. In addition, the Kent

Design Guide is a guide, this is not a policy requirement nor is the development unsafe, and this is not part of KCC's objection.

- 7.39 Under the previous permission, monies (£113 per dwelling) were secured via the Section 106 towards potential mitigation measures should development traffic use more minor local roads, which were considered to be less suitable for increases in traffic. This would be measured through traffic monitoring carried out by the developer. On the basis that this was required previously it is considered reasonable and necessary to secure this once more which would be a total of £34,126. This is considered to be a development-specific requirement and so the use of Section 106 is appropriate.

#### Off-Site Infrastructure

- 7.40 KCC are requesting s106 monies towards primary education (land and build costs) totalling £1,643,575 for the primary school at Langley Park to the south of the site. In summary, they make this request on the basis that the previous permission would have provided s106 contributions; that the new 2FE primary school at Langley Park was predicated on meeting the demand generated by developments in the immediate vicinity of which the Bicknor Farm site was one; in their view CIL would fail to support the requisite community infrastructure required to mitigate the impacts of the development; and there is no guarantee that developer contributions will come forward for the new Langley Primary School under the CIL process.
- 7.41 The adopted CIL is charged on new floor space to help deliver infrastructure to support development. CIL is relevant for 'strategic' infrastructure and projects where there is a cumulative requirement so monies can be pooled. Section 106 is generally relevant for on-site/site-specific infrastructure or off-site where the scale of development requires a stand-alone project. The scale of development proposed here is not such that it generates the need for a new standalone school/form of entry or specific on-site infrastructure, and so s106 monies are not appropriate or reasonable in this case. The development will place an additional demand on such services, and CIL monies could potentially be used towards primary education which is in accordance with policy DM20. The new primary school is obviously open on Langley Park so is available to serve new pupils from the development.

#### Other Matters

##### *Affordable Housing*

- 7.42 Affordable Housing is proposed at 30% (91 units) with the tenure split 70% affordable rent and 30% shared ownership. This overall amount (30%) is in accordance with policy SP20 as is the tenure split and this will be secured under the legal agreement. A monitoring fee for the s106 will also be secured.
- 7.43 The Parish Council initially raised concerns regarding the concentration of the affordable dwellings, and this was something officers agreed with. As such the layout has been amended to break up, and better integrate the

affordable housing. Whilst it cannot be provided on every street as suggested by the Parish Council for management reasons, the spread is now acceptable and in accordance with policy SP20.

#### *Air Quality*

7.44 Policy H1(9) requires:

**8. *Appropriate air quality mitigation measures to be agreed with the council will be implemented as part of the development.***

7.45 An air quality assessment has been submitted which concludes that any increases in NO<sub>2</sub> concentrations are expected to have a negligible impact on air quality and would not cause any exceedances of the relevant Air Quality Standards. The site is located outside any Air Quality Management Areas and it concludes that new residents would not be subjected to poor air quality. The Environmental Health section has reviewed the assessment and raises no objections. In line with the Council's Air Quality Planning Guidance, an emissions mitigation calculation has been used to quantify potential emissions from the development and provides a suggested mitigation value for proportionate mitigation to be integrated into the development. A number of potential mitigation measures are outlined and the specific measures can be secured by condition which can include measures such as EV charging points for houses with off-street parking as this is a requirement under policy DM23 of the Local Plan.

#### *Drainage*

7.46 The ground conditions are suitable for infiltration so it is proposed that surface water would drain into the ground. This would involve both shallow and deep bore soakaways, permeable surfacing, and also run-off would be stored in tanks and piped to open space areas where there would be SUDs basins and trenches. KCC LLFA has raised no objections subject to a condition securing the fine details of the drainage scheme.

7.47 Southern Water has advised that there is not currently sufficient capacity in the local network for foul drainage. Increased capacity/any necessary upgrades and connections would be provided between the developer and Southern Water via the Water Industry Act with connection at the nearest point of adequate capacity in line with criterion 16 of policy H1(9). A pumping station is required and this will be located in the northwest corner.

#### *Ecology*

7.48 The applicant's assessment reveals that there is an active badger sett on the site, bats are roosting within some trees, bats forage within the site, and that low numbers of slow worms were recorded in 2014 but not in 2019. The main ecological interest is the tree line within the centre of the site and the trees and woodland on the edges.

7.49 The site does not have high ecological value but mitigation is proposed for reptiles, bats and badgers. Although reptiles were not recorded in 2019, a

supervised destructive search would be carried out where they were previously found and should any be discovered found they would be translocated to the applicant's site in Staplehurst (Fisher's Farm) where there is an area suitable for reptiles as part of the GCN mitigation for that development. This is acceptable because any numbers would be very low on site, so it would be healthier for any reptiles to be moved to an area where there is a larger population. No trees with recorded bat roosts would be removed and so mitigation is limited to appropriate lighting and limiting light within the green corridors. For badgers, the existing sett is close to the proposed 'central green' and therefore a new artificial sett would be provided towards the north end of the central green corridor. Subject to ensuring the new sett is protected and surrounding vegetation and has the maximum time to establish (which is proposed), KCC Ecology raise no objections. Overall, these mitigation measures are deemed to be acceptable by KCC Ecology and can be secured by condition. A mitigation plan for the ancient woodland is also proposed to protect it during construction and once the development is occupied which can be secured by condition. With the above mitigation, the development would be in accordance with policy DM3 of the Local Plan.

- 7.50 Enhancements are proposed in the form of tree mounted bat boxes, bat tubes within buildings, tree and building mounted bird boxes, hedgehog boxes and corridors, and bee bricks. This is in addition to new native planting and wildflower grassland. This is considered a proportionate response based on the ecological value of the site and will provide an appropriate biodiversity net gain for this development in line with the NPPG.

#### *Residential Amenity*

- 7.51 Proposed houses would be spaced and positioned to ensure sufficient privacy and outlook. In terms of neighbouring properties, an apartment block (Block A) is proposed in the southwest corner of the site to the northwest of 2 Bicknor Farm Cottages. Because it is off-set to the northwest of this property, the apartment would not result in an obtrusive or overbearing impact upon this property or the rear outlook within the garden. Similarly because of the position off-set from the property and distance (20m), there would not be an unacceptable loss of privacy from the south facing windows on the apartment block. However, this property has low fencing around its rear garden and so a higher boundary would be needed on the application site to prevent a loss of privacy and car headlight light intrusion from the use of the parking area, and a 1.8m fence is proposed to ensure this. The parking area would not cause any unacceptable noise or disturbance due to the separation distance from the neighbouring properties. There is another apartment block (Block B) in the southwest corner which is near to an existing apartment block to the west of the site (Downton Court). The separation distance would be 20m and this is sufficient to ensure acceptable privacy between these apartments.

#### *Sustainable Design*

- 7.52 The developer is taking a 'fabric-first' approach with the new dwellings by basically ensuring they meet the strengthened on-site energy performance



standards of Building Regulations through thermally efficient buildings, low air permeability, and energy efficient boilers. They would also meet the Building Regulations optional requirement for tighter water efficiency. This is in accordance with policy DM2.

### *Archaeology*

- 7.53 An archaeological evaluation of the site has taken place with trial trenches dug and this has revealed various features. The applicant is in the process of agreeing a programme of works with KCC where any archaeology would be recorded and this can be secured by condition.

### *Environmental Impact Assessment*

- 7.54 As can be seen from the planning history, an EIA Screening Opinion was submitted in 2014 for 335 new dwellings. The Council concluded that an EIA was not required and this took into account the cumulative impact from the development to the west and Langley Park to the south. The Bicknor Wood site immediately to the north was screened in 2015 and an EIA was not required. Recently this year, a screening opinion on site H1(8), which took into account the cumulative impact of the southeast Maidstone housing allocations, concluded that the development would not be likely to have significant effects upon the environment sufficient to warrant an EIA.
- 7.55 In screening the current proposal, the scheme is for housing rather than any complex development, and it is not considered that the characteristics or size of the development are such that significant environmental impacts are likely to arise. The potential for cumulative effects with other approved nearby developments is also not considered to be so substantial that significant environmental impacts are likely to arise, and this is a view the Council have consistently taken on southeast housing sites. The development would not have any significant impacts on natural resources, land, soil, water, or biodiversity, nor would it result in any significant production of waste or pollution. There would be no risk of major accidents or harm to human health. The effects of the development would essentially be 'local' and having regard to the guidance within the EIA Regulations and the NPPF/NPPG, it is not considered that the development would be likely to lead to significant environmental effects of a nature that would require an EIA.

### *Representations*

- 7.56 Matters raised but not considered above relate to dog fouling, the burden on neighbouring residents management costs, the PROW north of the site, and providing security fencing for the Cricket Club.
- 7.57 Dog fouling and the provision of waste bins is not a planning consideration. I do not consider new residents would place any significant additional pressures on the open space areas and play areas of neighbouring housing estates, however, clearly an important principle of good planning and place making is linking neighbourhoods, people and communities. The Parish Council have suggested improvements to PROW KM94 to the north of the

site to make it suitable for pushchairs and wheelchairs. As this PROW only provides a link to a pub and not any significant amenities, I do not consider this is necessary or reasonable and so would not pass the tests for conditions. New security fencing for the cricket club is not necessary for the development to be acceptable and so cannot be required.

#### *Public Art*

7.58 In line with the Council's guidance, this scale of development is appropriate for some public art provision which the applicant is proposing within the central green. A Public Art Delivery Plan has been submitted which will be followed in providing the public art which can be secured by condition.

### **8.0 CONCLUSION**

8.01 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless materials considerations indicate otherwise.

8.02 The site is allocated for 335 houses within the Local Plan under policy H1(9) subject to a number of criterion. The application proposes 302 houses and for the reasons outlined in the report above, the proposals comply with all policy criterion subject to the legal agreement and conditions. The application also complies with all other relevant Development Plan policies.

8.03 Kent Highways are raising objections on the basis that the cumulative traffic impact on the A274 will be unacceptably severe. For the reasons outlined in the report, the Local Planning Authority does not agree the impact is severe, and the objections are not considered to be reasonable grounds to refuse planning permission.

8.04 All representations received on the application have been fully considered in reaching this recommendation.

8.05 It is concluded that the development is acceptable and complies with policy H1(9) and all other relevant policies of the Development Plan. There are no overriding material considerations to warrant a decision other than in accordance with the Development Plan, and so permission is recommended subject to the legal agreement and conditions as set out below.

### **9.0 RECOMMENDATION**

Subject to:

The conditions set out below, and the prior completion of a legal agreement to secure the heads of terms set out below, the Head of Planning and Development **BE DELEGATED POWERS TO GRANT PLANNING PERMISSION** (and to be able to settle or amend any necessary Heads of Terms and planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee).

### **Heads of Terms**

1. 30% affordable housing provision (made up of 70% affordable rent and 30% shared ownership).
2. £34,126 towards Traffic Displacement mitigation.
3. £948 Travel Plan monitoring fee.
4. £1,500 Section 106 monitoring fee.

### **Conditions**

#### *Approved Plans*

1. The development hereby permitted shall be carried out in accordance with the Drawing List dated 29.11.19.

Reason: To clarify which plans have been approved, to ensure a high quality development, and to protect residential amenity.

#### *Time Limit*

2. 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.

#### *Compliance*

3. The development shall be carried out in accordance with the external building materials as shown on drawing no. 003 RevD unless alternative details are submitted to and approved in writing by the local planning authority pursuant to this condition. Such alternative details must be submitted prior to any development above slab level taking place and the development shall be carried out in accordance with any approved alternative details..

Reason: To ensure a high quality development.

4. The development shall be carried out in accordance with the hard surface materials as shown on drawing no. 010 RevE unless alternative details are submitted to and approved in writing by the local planning authority pursuant to this condition. Such alternative details must be submitted prior to any development above slab level taking place and the development shall be carried out in accordance with any approved alternative details...

Reason: To ensure a high quality development.

5. The development shall be carried out in accordance with the boundary treatments as shown on drawing no. 004 RevE unless alternative details are submitted to and approved in writing by the local planning authority pursuant to this condition. Such alternative details must be submitted prior to any development above slab level taking place and the development shall be carried out in accordance with any approved alternative details...

Reason: To ensure a high quality development and to protect residential amenity.

6. The soft landscaping shall be carried out in accordance with the 'Landscape Proposals' Drawings RevG (Sheets 1 to 5) unless alternative details are submitted to and approved in writing by the local planning authority pursuant to this condition. Such alternative details must be submitted prior to any development above slab level taking place and the development shall be carried out in accordance with any approved alternative details.

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 either before or in the first planting season (October to February) following the occupation of the building(s) or the completion of the development, whichever is the sooner; and 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 setting to the development.

8. The soft landscape and ecology areas shall be managed in accordance with the Landscape and Ecological Management Plan dated 12<sup>th</sup> November 2019.

Reason: In the interest of biodiversity management and enhancement.

9. The development shall be carried out in accordance with the mitigation strategies for reptiles, bats, breeding birds, badgers, and the ancient woodland, and the ecological enhancements, as outlined in the Ecological Design Strategy dated November 2019 and Corylus Ecology letter dated 7<sup>th</sup> January 2020.

Reason: In the interest of biodiversity management and enhancement.

10. The development shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement (dated 29 November 2019) and the Tree Retention and Protection Plans LLD1654-ARB-DWG-003-02 and LLD1654-ARB-DWG-004-02.

Reason: To ensure trees are retained and protected during construction in the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory setting to the development.

11. The areas of public open space as shown on drawing no. 011 RevD shall be maintained as public open space in perpetuity.

Reason: To ensure adequate open space areas for the development.

12. The 'Public Art Delivery Plan' shall be followed to deliver the public art and it shall be installed in accordance with the timetable set out within the 'Lead Artist Brief 2019' and maintained in accordance with the applicant's email dated 13/01/20.

Reason: To comply with the Council's public art guidance and to provide a sense of place.

13. 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.

#### *Pre-Commencement*

14. No development shall take place until details of the proposed slab levels of the buildings, roads and paths, together with 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 having regard to the topography of the site.

15. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment (Charles & Associates, July 2019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- a) That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- b) Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

16. No development shall take place until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved

Reason: In the interests of human health.

17. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

- a) 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
- b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording 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 and that due regard is had to the preservation in situ of important archaeological remains.

18. No development shall take place on any phase of the development until the submitted Landscape and Ecological Management Plan (LEMP) has been reviewed and updated for that phase, and then submitted to and approved in writing by the local planning authority. The updated LEMP must include the following information:

- a) Time frame for the habitat creation and ongoing management.
- b) Results of ongoing monitoring for the wider site.
- c) Changes of any management within the wider site.

The LEMP must be implemented as approved.

Reason: In the interest of biodiversity protection and enhancement.

19. No development shall take place a detailed badger mitigation and monitoring strategy has been submitted to and approved in writing by the Local Planning Authority. It must be based on the recommendations within the Ecological Design Strategy (November 2019) and the Letter from Corylus Ecology (dated 7th January 2020) and include a phasing plan demonstrating that the development of each phase is in line with the requirements of the badger mitigation strategy. The mitigation strategy shall be implemented as approved.

Reason: In the interest of biodiversity protection.

20. Notwithstanding the approved plans and prior to the commencement of development, an amended plan shall be submitted to and approved in writing by the local planning authority showing an alternative location for any SUDs features near to the diverted footpath, or the diverted footpath sited further away from any SUDs features. The development shall be carried out in accordance with the approved details.

Reason: To ensure a useable public footpath is maintained.

*Pre-Slab Level*

21. No development above slab level shall take place until a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in back garden and other relevant amenity areas will conform to the standard identified by BS 8233 2014 (Sound Insulation and Noise Reduction for Buildings) has 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: To ensure an appropriate standard of residential amenity.

22. No development above slab level shall take place until details of electric vehicle charging points, which shall be provided on all plots with on-plot parking, have been submitted to and approved in writing by the Local Planning Authority. The charging points shall be installed prior to occupation of that dwelling and shall be carried out in accordance with the approved details and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

23. No development above slab level shall take place until details of a pavement link on the south side of the A274 between the toucan crossing to the west of the application site and Bircholt Road have been submitted to and approved in writing by the local planning authority (in consultation with the Highways Authority). The approved details shall be provided in full prior to the occupation of the development.

Reason: In order to provide appropriate connectivity.

24. No development above slab level shall take place until a sample panel of the ragstone for the walling, including mortar mix details, has been submitted to and approved in writing by the Local Planning Authority. Such details as approved shall be fully implemented on site.

Reason: To ensure a high quality appearance.

25. No development above slab level shall take place until a detailed lighting scheme demonstrating that the lighting has been designed to meet the recommendations within the Ecological Design Strategy (Corylus Ecology; November 2019) has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained.

Reason: In the interest of biodiversity protection.

#### *Pre-Occupation*

26. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local



Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained.

27. The development shall not be occupied until the access as shown on drawing no. 18-048-010 RevH has been fully implemented.

Reason: In the interests of highway safety.

28. The development shall not be occupied until the off-site highways works as shown on drawing no. 18/068-024 RevC have been provided in full.

Reason: In order to provide appropriate connectivity.

29. The measures within the approved Travel Plan (dated July 2019) shall be fully implemented in accordance with the Plan.

Reason: In order to promote sustainable transport use.

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<b>REFERENCE NO -</b> 19/504497/FULL		
<b>APPLICATION PROPOSAL</b> Demolition of existing commercial building and erection of 2no. semi detached dwellings with associated parking.		
<b>ADDRESS</b> The Wheelwrights, The Green, Boughton Monchelsea, Maidstone, Kent, ME17 4LT		
<b>RECOMMENDATION</b> Grant permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The principle of the development within a defined settlement is acceptable. Alterations have been made to the scheme refused at appeal to the scale and appearance of the dwelling so that its impact on the conservation area, the setting of the adjacent listed buildings, and neighbouring amenity are now acceptable. Parking provision is acceptable. As such the proposal accords with the requirements of the local plan and the NPPF.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Boughton Monchelsea Parish Council consider that the proposal would cause substantial harm to adjacent heritage assets and the conservation area, are concerned that there does not appear to be any direct access to the rear of the properties, and consider that the proposal constitutes over-development of the site.  They have stated that the drawings are over simplistic and do not therefore accurately represent the comparison between existing and proposed, or illustrate the relationship with the adjacent neighbouring heritage properties. They have stated that the proposal appears to be further forward than the existing commercial building. No dimensions have been provided on the drawings, in order to determine the height of existing and proposed. They consider the use of material is crude.		
<b>WARD</b> Boughton Monchelsea And Chart Sutton	<b>PARISH/TOWN COUNCIL</b> Boughton Monchelsea	<b>APPLICANT</b> Mr A Gardiner <b>AGENT</b> JPD Architecture Ltd
<b>TARGET DECISION DATE</b> 24/01/20		<b>PUBLICITY EXPIRY DATE</b> 22/11/19

### **Relevant Planning History**

13/1462

Change of use of land, demolition of existing structure and erection of 2 no. semi-detached houses. Refused

14/0707

Demolition of the existing structure and construction of 2 semi detached houses  
Refused and dismissed at appeal (see refusal reasons at para 1.03 below).

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

- 1.01 The application site lies within the settlement of Boughton Monchelsea and within the designated conservation area. The site is located on the western side of Boughton Green and is located between two Grade 2 Listed Buildings in residential use.

- 1.02 The site is occupied by a substantial redundant commercial building previously used as a light industrial workshop at ground floor level with office space above. The existing building is set forward of the residential dwellings to the north and south. The site makes a negative contribution to the locality due to the size, scale and appearance of the commercial building, and due to it being left to fall into a derelict condition. The existing site has a significant change in level - it falls approximately one storey from east to west.
- 1.03 Application 14/0707 was refused for the following reasons:  
(1) The proposed development would cause harm to the character of the Boughton Monchelsea Conservation Area and adjoining Listed Buildings due to its excessive height, inappropriate scale and form together with its position on site and close proximity to the dwellings immediately north and south of the site. As such the proposal would fail to respect the guidance in the National Planning Policy Framework 2012 and PSS5 The Historic Environment Practice Note.  
  
(2) The proposed development would result in an unacceptable living environment for the new occupiers by virtue of the oppressive flank walls of the existing neighbouring dwellings to the north and south of the site; furthermore the siting of a rear window on the northern most new dwelling immediately on the boundary with Oak Tree Cottage would have an unacceptable amenity impact on the occupiers of this property. As such the proposal would not accord with design guidance contained in the National Planning Policy Framework 2012.
- 1.04 The Inspector found that because of the siting of the proposed building, further forward than the existing, the proposal would appear as bulky and overbearing and would therefore harm the setting of the adjacent heritage asset.
- 1.05 Because the rear elevation showed three storeys plus accommodation within the roof and sat close to the front and lower level elevations of the neighbouring dwellings it impacted on the frontage outlook of the neighbours. Owing to its additional height, it would have resulted in an increased sense of enclosure and an overbearing presence to Oak Tree Cottage. Because the roof level windows would look directly out over the rear garden of Oak Tree Cottage, it would jeopardise privacy levels of those occupiers.

## **2. PROPOSAL**

- 2.01 The submission proposes the demolition of the existing building and the construction of a pair of semi detached 3 bedroom houses with parking to the front area on the west side, and private garden space to the rear east side of the development.
- 2.02 The proposal sits at one visible storey to the front, with a first floor level within the roof area, and a lower ground floor level which is not visible from the front. There are two storeys to the rear, one of which is a lower ground floor level. To the rear, the first floor level within the roof is serviced by pitched roof dormers.
- 2.03 The proposal contains a lower and ground floor protrusion within a rear central element, with the rear elevation set back at the point where it sits closest the adjacent occupiers.
- 2.04 The elevational treatment of the new dwellings would be in traditional materials with predominantly stock face brickwork and feature areas of traditional weatherboard to the principal elevations all constructed under a plain clay handmade tiled roof.

- 2.05 Windows and joinery are shown in a traditional style using painted timber frames and an Oak front entrance door.
- 2.06 The parking forecourt will be laid with Marshall's regular pavers with plant screening to refuse storage areas and bike racks, boundary fencing to the front area is bounded by 1.200m high oak post and rail fencing.

**3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 - SS1, SP1, SP12, SP18, SP21, DM1, DM4  
Supplementary Planning Documents - The CA Management Plan (2017)  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

**4. LOCAL REPRESENTATIONS**

**Local Residents:**

- 4.01 1 representation received from a neighbouring occupier raising the following (summarised) issues:

- Is the gradient of the plot, front to rear, pronounced enough to facilitate the planned rear lower ground floor, or will excavation be required? Could such work cause any damage to neighbouring property and trees?
- The proposed block plan (4/18) appears to show the side walls of the house actually forming the boundary to my property. These side walls incorporate two widows. How will these be cleaned or maintained without encroachment onto neighboring property?
- As there is no information on the height of the proposed building, a clear view cannot be given, and further to this, it is unclear whether this is any different from the last planning application (14/0707) which was rejected.
- It is requested that, instead of a fence around the proposed garden areas, that the current walls be modified to an appropriate height and kept; that a fence is erected along the boundary of the property on both sides.

- 4.02 Boughton Monchelsea Parish Council have advised:

*'The Parish Council wish to see the application refused for the following reasons. If the case officer is minded to approve the application then we would like it reported to MBCs planning committee, for decision.*

*The design neither recreates the quality of the existing vernacular nor creates a contemporary high quality addition. The proposal is in the centre of our village and would be on full display within the conservation area. The design should complement the existing heritage buildings, not detract from them.*

*There does not appear to be any direct access to the rear of the properties.*

*We have concerns regarding the parking area to the front of the properties which is not sensitive to the conservation area or adjacent listed buildings*

*Windows are not allowed in the boundary wall under Building Regulations. In addition this would cause maintenance and access issues and overlooking to adjacent private amenity space Bedroom 3 in each property would not have a window unless it was in the boundary wall*

*The proposal constitutes over-development of the site*

*The drawings are over simplistic and do not therefore accurately represent the comparison between existing and proposed, or illustrate the relationship with the adjacent neighbouring heritage properties*

*The proposal appears to be further forward than the existing commercial building. No dimensions have been provided on the drawings, in order to determine the height of existing and proposed*

*The use of material is crude. We would not want to see any modern weatherboarding The dormers are out of scale with the elevation and the detailing is crude and clunky The conservation officer should be fully consulted on this application.'*

- 4.03 In response to revisions to the proposal showing a reduction in the scale of the front former windows and the removal of the lower ground floor side windows, the Parish Council have continued to object to the proposal, and have stated:

*'In his response to the original application documents the conservation officer makes reference to the conservation area management plan for The Green which states that any new building at this location should be placed further back into the site and be lower in relation to its neighbours than the existing building. The plan goes on to state that careful landscaping of the forecourt will also be important.*

*The conservation officer admits in his report that the proposed semi-detached dwellings would not fully address the issues highlighted above or the previous reasons for refusal on the site and would continue to appear visually dominant in relation to the listed buildings and conservation area. He adds that two dwellings on such a limited plot could appear cramped and overdeveloped, particularly with the additional parking and bin storage required to the forecourt and that a single dwelling set further back on the plot, with additional space for landscaping, would be a preferable solution.*

*Given the above, it is incredulous that the conservation officer then states that he does not wish to object. This makes a mockery of the planning process. If the conservation officer has such significant concerns then he should follow this through by recommending refusal of the application.*

*You have advised that the only amendments to the application are as follows. These do nothing to address the points made above.*

- the lower ground floor has been reconfigured so that the bedroom window does not look out to the side of the building*
- the dormers have been altered to address concerns by the conservation officer*
- the existing dimensions have been added to the plans to demonstrate the difference between proposed and existing layouts*

*Please note that the Parish Council wish to see the application refused for the planning reasons we have already submitted. In addition, the proposal would cause substantial harm to adjacent heritage assets and the conservation area it is set within and this represents a further planning reason for refusal.'*

## **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### **5.01 Maidstone Conservation Officer**

*'The Conservation Area Appraisal (2008) describes the building as "...a very bulky and dominant building which challenges the integrity of the setting of the listed buildings either side of it", making a negative contribution to The Green CA. There*

*were structures occupying the same location prior to the construction of the existing building.*

*The site is within the setting of two listed buildings: immediately to the south is the Old Farmhouse (Grade II) and to the north is Oak Tree Cottage (Grade II). Both are set further back from the street frontage and each makes an important contribution to the character of the area.*

*The CA Management Plan (2017) states the following in relation to the site: "...The negative impact of the present building is due mainly to the combination of its bulk and height, and its siting forward of the historic listed buildings beside it (whose ground floors are at a lower level. It is unlikely that any vernacular building of pre-20th century date would have exceeded the height of the substantial neighbouring houses. In light of the appeal decision<sup>10</sup>, therefore, in addition to being designed in keeping with its historic context, any new building here should be placed further back into the site and be lower in relation to its neighbours than the existing building, to reduce its overbearing effect and thus to enhance the conservation area. Careful landscaping of the forecourt will also be important. ..."* (para. 5.3.12)

*I have no objection to the replacement of the existing buildings on site. I have concerns the proposed replacement semi-detached dwellings would not fully address the issues highlighted above or the previous reasons for refusal on the site, and would continue to appear visually dominant in relation to the listed buildings and conservation area. Two dwellings on such a limited plot could appear cramped and overdeveloped, particularly with the additional parking and bin storage required to the forecourt. A single dwelling set further back on the plot with additional space for landscaping would be a preferable solution.*

*However, given the proposed dwellings would appear smaller in height and scale than the existing building, and their form and design would be generally appropriate to the character of the conservation area, I do not wish to object.*

*I have concerns the dormer windows could appear crude and bulky – particularly the timber detailing, and suggest a condition is added to control this.*

*I also recommend conditions requiring details of materials, rainwater goods, doors, and windows to ensure they are in accordance with para. 7.5.6 of the CA Management Plan'*

Following the submission of revised plans showing smaller front dormer windows, the conservation officer has raised no objection.

#### Kent Flood and Water Management

5.02 No comments

#### Environmental Protection

5.03 Raised no objection subject to the imposition of conditions

#### Kent Highways

5.04 No comment on the proposal

## **6. APPRAISAL Main Issues**

6.01 The key issues for consideration relate to:

- Principle of Development
- Design and Visual Impact
- Heritage Impact

- Amenity Impact
- Highways and Parking

### **Principle**

- 6.02 Paragraph 10 and 11 of the NPPF sets out that at the heart of the document is the presumption in favour of sustainable development and for decision making this means approving development proposals that accord with the development plan without delay.
- 6.03 Government guidance in the NPPF and Local Plan policy are generally supportive of new housing in sustainable urban locations as an alternative to residential development in more remote countryside locations.
- 6.04 Policy SS1 of the local plan states that the principal focus for residential development in the borough is the urban area, followed by the rural service centres and then larger villages. In other locations, policy dictates that protection should be given to the rural character of the borough. For the purposes of the Local Plan, Boughton Monchelsea is a larger village. Policy SP12 provides that it can accommodate limited growth.
- 6.05 As such, and as has been established previously through consideration of applications 13/1462 and 14/070, and at appeal, there is no objection to the principle of the redevelopment of the site, but the manner in which it is undertaken needs to reflect the characteristics and sensitivities of the area.

### **Design and Visual Impact**

- 6.06 Paragraph 124 of the NPPF states that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'
- 6.07 Local Plan Policy DM1 seeks to achieve high quality design in all development proposals, and to achieve this, the Council expects proposals to positively respond to, and where appropriate enhance the character of their surroundings. Proposals should respect the topography of a site. Landscaping and boundaries should be used to help assimilate development in a manner which respects the local and natural character of the area.
- 6.08 The existing structure fills the site with the building constructed to the boundaries on the North, South and Eastern sides with a parking area on the West side accessed off the road to the Green.
- 6.09 The building is very prominent in the setting and is sandwiched between the listed Cottages on the North and South sides. It is constructed in front and between the Cottages, and dominates the listed buildings. The original design of the building is very industrial in appearance and is out of character with the surrounding architecture of the residential properties that surround The Green
- 6.10 The front elevations of 14/0707 showed two full storeys plus accommodation in the roof. In comparison, the current scheme shows lower height dwellings set over two storeys with one of these set within the roof. To the rear, the refused scheme which showed three storeys plus accommodation in the roof has been amended to show two storeys plus roof accommodation. The proposal will result in a reduction in height compared with the existing building.



- 6.11 As such, it represents a significantly improved scale of development compared with the existing building and the refused application.
- 6.12 The form, proportions and detailing of the proposal is appropriate to the setting of the site taking into account the adjacent listed buildings and the conservation area. The proposal would relate sufficiently to the streetscene and appear in keeping with surrounding development. The dwellings have been simplified in form compared with the refused scheme. The bulky and obtrusive front porches have been removed, and revisions have been made to that submitted which reduce the scale and form of the front dormers. The resultant scheme would reflect that of agricultural workers cottages, and would be subservient to the adjacent listed buildings.
- 6.13 To reflect the importance of the setting of the development, additional details of landscaping and boundary treatments could be reasonably be required by condition.

#### **Heritage Impact**

- 6.14 Policy SP18 of the Local Plan relates to the historic environment and requires that, inter-alia, the characteristics of heritage assets are protected and design is sensitive to heritage assets and their settings. Policy DM4 of the Local Plan also relates to development affecting designated heritage assets, and requires applicants to ensure that new development affecting heritage assets conserve, and where possible enhance, the significance of the heritage asset.
- 6.15 The CA Management Plan (2017) states the following in relation to the site: *"...The negative impact of the present building is due mainly to the combination of its bulk and height, and its siting forward of the historic listed buildings beside it (whose ground floors are at a lower level. It is unlikely that any vernacular building of pre-20th century date would have exceeded the height of the substantial neighbouring houses. In light of the appeal decision<sup>10</sup>, therefore, in addition to being designed in keeping with its historic context, any new building here should be placed further back into the site and be lower in relation to its neighbours than the existing building, to reduce its overbearing effect and thus to enhance the conservation area. Careful landscaping of the forecourt will also be important. ..."* (para. 5.3.12)
- 6.16 The revised National Planning Policy Framework (paragraph 192-193) states:  
In determining applications, local planning authorities should take account of:  
a) desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;  
b) positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and  
c) desirability of new development making positive contribution to local character and distinctiveness.
- 6.16 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.17 The planning (Listed Buildings and Conservations Areas) Act 1990 provides specific protection for buildings and areas of special architectural or historic interest. The Act places a duty on local planning authorities in making its decisions to pay special attention to the desirability or preserving or enhancing the character or appearance of conservations areas.

- 6.18 The conservation Officer has considered the application and assessed its revised scale and detailing in comparison to the previously refused scheme. He has advised that he has no objection to the replacement of the existing buildings on site. He has raised concerns that the proposed replacement semi-detached dwellings would not fully address the issues highlighted in the conservation area management plan or the previous reasons for refusal on the site, and would continue to appear visually dominant in relation to the listed buildings and conservation area. Two dwellings on such a limited plot could appear cramped and overdeveloped, particularly with the additional parking and bin storage required to the forecourt. A single dwelling set further back on the plot with additional space for landscaping would be a preferable solution.
- 6.19 However, he has concluded that, on balance, given that the proposed dwellings would appear smaller in height and scale than the existing building, and their form and design would be generally appropriate to the character of the conservation area, he does not wish to object.
- 6.20 As such, based on the enhancement of the appearance of the Conservation Area and the improvement to the setting of the listed buildings, the proposal would not result in any harm to the designated heritage assets.
- 6.21 In this regard, the proposal would accord with local policy and NPPF guidance.

**Amenity Impact**

- 6.22 The NPPF states that proposals should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 6.23 Policy DM1 of the local plan states that proposals should 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, or is exposed to 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.
- 6.24 While the dwellings would sit in close proximity to the adjacent buildings, they would be no closer than the existing building. The height of the proposal has now been reduced in comparison to the previously refused scheme.
- 6.25 The only flank windows shown in the dwellings are at a high level, would service bathrooms and as such could be required to be obscurely glazed. They would have no impact on the privacy of neighbouring occupiers.
- 6.26 The inset rear elevation of the proposal which sits in closest proximity to the front of the adjoining occupiers presents windows at 2 storeys including bedroom windows at the lower ground floor level. The ground floor level presents small secondary living room windows. These would be shielded from the neighbouring occupiers by boundary treatments. As such, the impact of these on the privacy of adjoining occupiers would also be acceptable.
- 6.27 The protruding element of the dwellings would not face towards the neighbouring occupiers but would face towards the rear gardens of the proposed dwellings, and therefore the windows in this element will function as expected within a residential setting and would not have a detrimental impact on neighbouring occupiers.
- 6.28 The Inspector refused the previous scheme because the rear elevation showed three storeys plus accommodation within the roof and sat close to the front and

lower level elevations of the neighbouring dwellings and therefore impacted on the frontage outlook of the neighbours. Owing to its additional height, it would have resulted in an increased sense of enclosure and an overbearing presence to Oak Tree Cottage. Because the roof level windows would look directly out over the rear garden of Oak Tree Cottage, it would jeopardise privacy levels of those occupiers.

- 6.29 Due to the reduction in scale of the proposal compared with the previously refused scheme, and that it now sits no greater than the height of the existing building, the current proposal would not result in an increased sense of enclosure or have any greater an overbearing impact than the existing building. The first floor dormer windows would sit at a lower level and would have no greater impact on neighbouring privacy than would be considered reasonable within a residential setting, and also at no higher level than the top windows in the existing development.
- 6.30 As such, there would be no increased impact compared with the existing development, and the impact in this regard would be insignificant. The amenity impact of the proposal would accord with local plan and NPPF provision.

#### **Highways and Parking**

- 6.31 Policy DM1 of the local plan states that proposals should safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access, and provide adequate vehicular and cycle parking to meet adopted council standards. Local plan policy DM23 states that, as set out in Appendix B of the Plan, car parking standards for residential development will:
- i. Take into account the type, size and mix of dwellings and the need for visitor parking; and
  - ii. Secure an efficient and attractive layout of development whilst ensuring that appropriate provision for vehicle parking is integrated within it.
- 6.32 The proposal shows the provision of two car parking spaces in front of each dwelling. This is a policy complaint level of parking within a defined village. As such, the parking provision would accord with policy DM1 in this regard.

#### **Other Matters**

- 6.33 Details of electric car charging points could be required by condition.
- 6.34 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

#### **PUBLIC SECTOR EQUALITY DUTY**

- 6.35 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

### **7. CONCLUSION**

- 7.01 The principle of development within a defined settlement is acceptable. Sufficient alterations have been made to the previously refused scheme to address the reasons for refusal. Owing to the reduction in scale and design changes to make the dwellings smaller in height, and simpler in form, the proposal would result in an improvement to the appearance and character of the conservation areas and settings of the listed building.

- 7.02 The reduction in scale through the removal of a storey of accommodation also addresses the previous reason for refusal and the concerns about overbearance. As such, the amenity impact of submission is acceptable.
- 7.03 As considered previously by the appeal Inspector, in all other regards the proposal is acceptable. As such, on balance the proposal accords with the provisions of the local plan and the NPPF.

## **8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

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

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

(2) Upon completion, no further development, whether permitted by Classes A, B, C or D of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the amenities of the area.

(3) The development shall be completed strictly in accordance with details in the form of cross-sectional drawings through the site showing proposed site levels and finished floor levels which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to secure a satisfactory form of development having regard to the sloping nature of the site.

(4) 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.

(5) Before the development hereby permitted is first used, the proposed upper side bathroom windows shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

(6) 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.

(7) 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.

(8) 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.

(9) 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 Spec, 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

(10) All planting, seeding and turfing specified in the approved landscape details shall have been completed by the end of the first planting season following first occupation and 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

(11) Each individual dwelling hereby approved shall not be occupied until a minimum of one electric vehicle charging point has been installed on the given building(s) with dedicated off street parking, and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles in accordance with paragraph 35 of the NPPF.

(12) No development beyond the construction of foundations shall take place until detailed drawings at a suggested scale of 1:5 of all new external and internal joinery work and fittings together with sections through glazing bars, frames and mouldings have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

(13) All rainwater goods to be used as part of the development hereby permitted shall be of cast iron unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of preserving or enhancing the character and appearance of the surrounding area.

(14) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

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

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

c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

(15) Prior to occupation of the dwellings, a Closure Report shall submitted upon completion of the works. The closure report shall include full verification details as set out in the preceding condition. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Reason: In the interests of protecting the health of future occupants from any below ground pollutants.

(16) The development hereby permitted shall be carried out in accordance with the following approved plans:

01-00 , 02 Rev 04, 07 Rev 04, 08 Rev 03, 09 Rev 03, 10 Rev 03

Reason: To clarify which plans have been approved..

### **INFORMATIVES**

(1) The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25th October 2017 and began charging on all CIL liable applications approved on and from 1st October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant

details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

(2) Your attention is drawn to the following working practices which should be met in carrying out the development:

- Your 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: if necessary you should contact the Council's environmental health department regarding noise control requirements.

- 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 Council's environmental health department.

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

- Vehicles in connection with the construction of the development should 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.

- The importance of notifying local residents in advance of any unavoidably noisy operations, particularly when these are to take place outside the normal working hours is advisable. Where possible, the developer shall provide residents with a name of a person and maintain dedicated telephone number to deal with any noise complaints or queries about the work.

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

- It is recommended that the developer produces a Site Waste Management Plan in order to reduce the volumes of waste produced, increase recycling potential and divert materials from landfill. This best practice has been demonstrated to both increase the sustainability of a project and maximise profits by reducing the cost of waste disposal.

- 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. If relevant, the applicant must consult the Environmental Health Manager regarding an Environmental Permit under the Environmental Protection Act 1990.

(3) It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

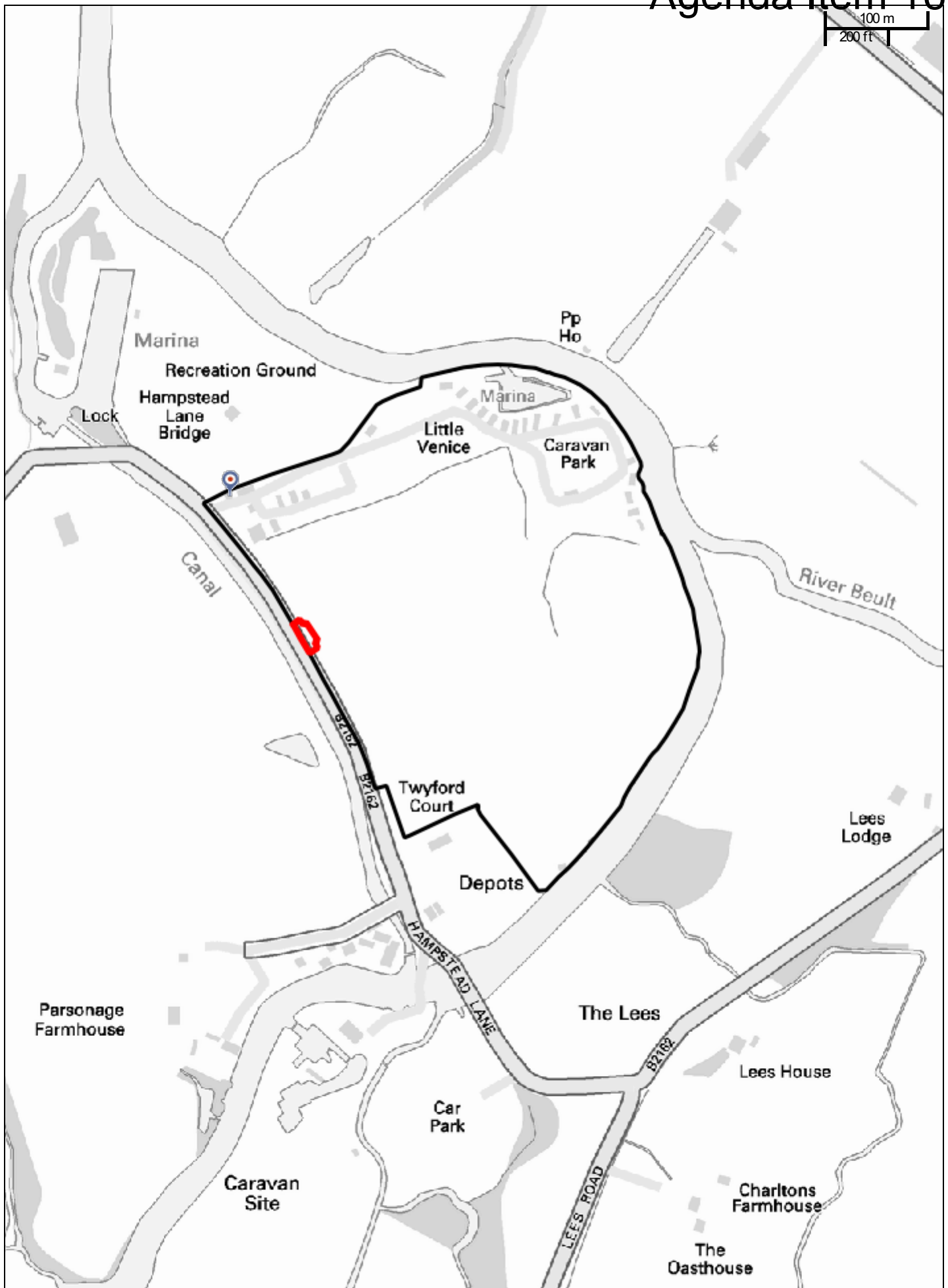
Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-ter/highway-land/highway-boundaryenquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Case Officer: Joanna Russell





100 m  
200 ft

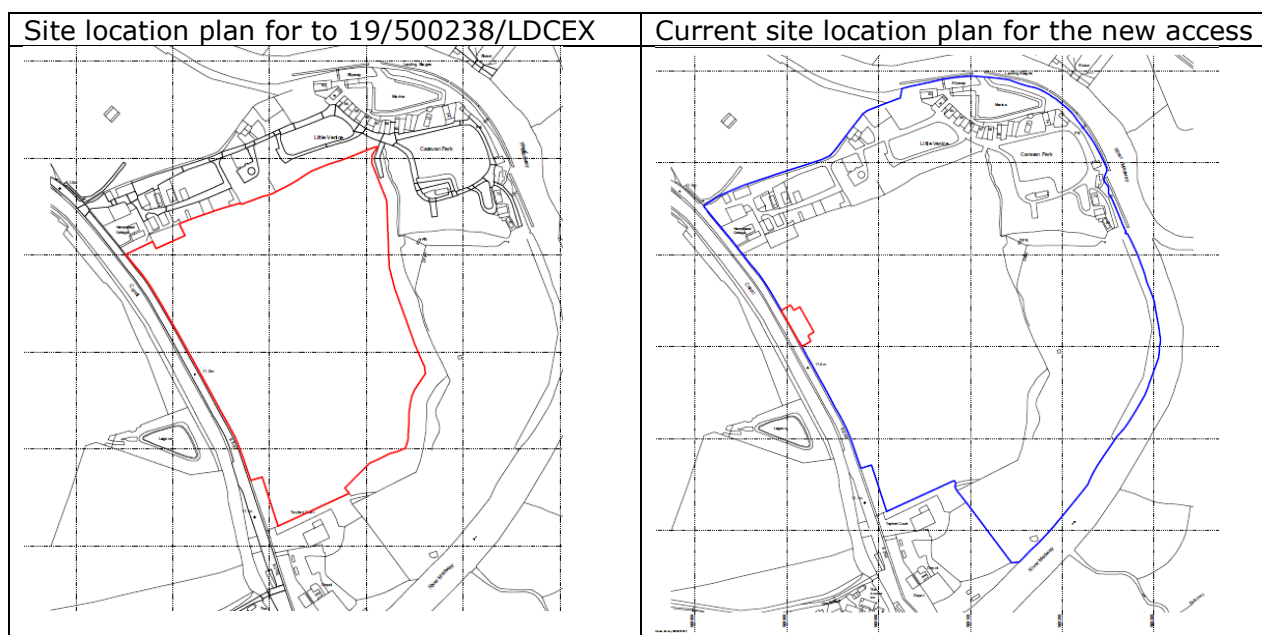
<b>REFERENCE NO - 19/504468/FULL</b>		
<b>APPLICATION PROPOSAL</b> Creation of new access onto Hampstead Lane (B2162) for the purposes of maintaining recreational land.		
<b>ADDRESS</b> Little Venice Country Park and Marina, Hampstead Lane, Yalding, Kent, ME18 6HH		
<b>RECOMMENDATION</b> Grant Planning Permission subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal would not be visually harmful within its countryside setting and the proposal is acceptable in relation to highway safety		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of the Parish Council that are set out in the consultation section.		
<b>WARD</b> Marden and Yalding	<b>PARISH/TOWN COUNCIL</b> Yalding	<b>APPLICANT</b> Mr. Albert Lee  <b>AGENT</b> Mr. Guy Bailey
<b>TARGET DECISION DATE</b> 28/01/2020		<b>PUBLICITY EXPIRY DATE</b> 22/10/2019

**Relevant planning history**

- The land that the proposed new vehicle access will serve was granted a Lawful Development Certificate on the 18.03.2019 (19/500238/LDCEX) for use as ancillary recreational land linked to the Little Venice Country (Caravan) Park, the caravan park is located to the north and east.
- The certificate was granted for the following reason: *"It has been demonstrated, on the balance of probability, that the parcel of land has been in use as ancillary recreational land in connection with Little Venice Country Park for a continuous period of more than 10 years before the date of this application"*.
- The ancillary recreational land is outlined in red on the first plan on the following page. The second plan shows the location of the vehicle access currently proposed in red and the extent of the land owned by the applicant in blue.
- The caravan park has operated from the 1960's with the original planning permission for Little Venice Country Park (MK/3/57/3 – seasonal caravan use allowed on appeal) was for the use of 14 acres of land. Since the original approval there have been a number of

subsequent planning permissions relating to ancillary development and changes to the number and occupation of the caravans. These permissions include:

- 62/0353 – Extension to the seasonal caravan site by a further 28 caravans and a new building required for sanitary accommodation.
- 65/0036 – New toilet block – permitted 5 April 1965
- 66/0019 – Use of land as an extension to existing caravan site – permitted 10 June 1966.
- 78/0312 – First floor extension to existing shop, store and office – permitted 24 July 1978
- 78/1820 – Internal alterations to the reception building at the entrance to the park to form toilet and kitchen – permitted 26 February 1979
- 91/1049 – Application to vary condition (i) of planning permission 66/0019 to allow occupation of caravans on site between November and February – permitted 30 December 1991
- 92/0156 – Application to vary condition 2 of planning permission 91/1049 to allow occupation for up to 28 consecutive days between November and February – permitted 19 August 1992
- 00/0037 – Change of use of existing toilet and storage building to on-site amenity room – permitted 22 March 2000
- 07/2296 – Change of use of land to create a 200 berth marina and associated service pontoon, footbridge, means of access and parking – permitted 2 April 2009
- 12/0602 – New planning permission to replace extant permission 07/02296 to allow a further three years in which to implement the development – permitted 16 May 2013



## **MAIN REPORT**

### **1 DESCRIPTION OF SITE**

- 1.01 The proposed new road junction (entry and egress) is on to Hampstead Lane which is a classified road (B2162) with pedestrian pavements on both sides. No street lighting is provided. The site is approximately 0.75km to the west of the centre of the village of Yalding.

- 1.02 Hampstead Lane in this location has a generally straight horizontal alignment with minimal gradient. The highway curves to the north west toward Yalding Railway Station. Double yellow line parking restrictions are in place on the west side of highway opposite the new access. The east side of the road is currently used for on street parking. Hampstead Lane is subject to a 40mph speed limit. Broken centre white line surface markings are provided together with cats' eyes.
- 1.03 To the east of Hampstead Lane is the site that would benefit from the proposed access; to the west of Hampstead Lane a canal. To the south is a bridge over the River Medway, which is under signal control.
- 1.04 As set out in the planning history the land that the access will serve is recreational land ancillary to the existing Little Venice Country Park and Marina located immediately to the north. The large and well-established Little Venice Country Park and Marina includes over 120 caravans and a marina serving boats and other water vessels using the River Medway. The evidence submitted as part of the Lawful Development Certificates set out that the recreational land has been used for the following activities:
- Dog walking;
  - Social gatherings;
  - Bar-B-Q's;
  - Charity events organised and run by the Park;
  - Wedding receptions for those at the Park;
  - Extended function space linked to the Clubhouse;
  - Jogging, dog walking and other informal exercise;
  - Informal play space for children;
  - Keeping of alpacas as pets
- 1.05 For the purposes of the Maidstone Local Plan, the application site is within the designated countryside. The access would be constructed over a medium pressure gas pipeline that runs along the length of the western boundary of the application site which has triggered a HSE consultation. The site and surrounding area are all within flood zones 2 and 3.

## **2. PROPOSAL**

- 2.1 The application seeks the creation of new access onto Hampstead Lane (B2162). The new access will serve ancillary residential land linked to the caravan park to the north. The submitted plans show a 2.4 metre by 65 metre and 2.4 metre by 120 metre visibility splays to the north and south of the new access. Preapplication advice has been sought in the past to expand the caravan park, however this was undertaken by the sites previous owner and as such is not considered relevant in this instance.
- 2.2 In terms of the need for the current proposal (and parish council comments) the applicant has stated the access will assist with the servicing of the established use of the field including the provision of equipment, and the maintenance and care of the alpacas. The applicant has advised that at present *"... vehicles drive through the caravan park to access the recreational land. The proposed new access will significantly simplify its accessibility...the access will not lead to any increase in demand for parking as the recreational land is only used by those in the caravan park"*.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017:  
SP17 – Countryside  
DM1 – Principles of good design

DM30 – Design principles in the countryside

The National Planning Policy Framework (NPPF):  
Section 12 – Achieving well-designed places and Section 15 – Conserving and enhancing the natural environment

**4. LOCAL REPRESENTATIONS**

**Local Residents:**

- 4.01 No representations were received from the eight neighbouring properties consulted.

**5. CONSULTATIONS**

Yalding Parish Council

- 5.01 There is no reason given for the need for an access. There is already a planning permission under application MA/07/2296, for a new entrance by the garage for the new marina and access to the field can be gained from here. The proposal will reduce the much needed, essential parking for tourists, canoeists and customers of The Boathouse.

KCC Highways (Following submission of Road Safety Audit)

- 5.02 No objection, subject to conditions relating to provision of parking for construction vehicles and provision of visibility splays.

Health and Safety Executive

- 5.04 No objection (reason for HSE consultation - The access would be constructed over a medium pressure gas pipeline that runs along the length of the western boundary of the application site).

**6. APPRAISAL**

**Main Issues**

- 6.01 The key issues for consideration relate to:
- Design / impact on character of area
  - Highways issues

**Design / impact on character of area**

- 6.02 Policy SP17 states that 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.
- 6.03 In terms of design, the creation of the access would not involve the removal of any substantial vegetation such as hedges or trees that could be considered to make up the character of the area. The boundary of the application site along the highway is formed of a wire and post fence, and is not of any significant design or landscape value.
- 6.04 The proposal does not seek to erect any significant new boundary features in connection with the new access such as brick walls, piers, or other more substantial fencing.
- 6.05 As such it is considered that the formation of the new access is acceptable in design terms and will not result in a detrimental impact upon the character and appearance of the countryside.

**Highways issues**

- 6.06 Policy DM1 states that development must "Safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access"
- 6.07 Policy DM30 continues "Proposals must not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological important or the erosion of roadside verges;"

Highway safety

- 6.08 As stated above, the access is sought to provide a simplified access arrangement to the recreational land for maintenance vehicles used in its maintenance which currently have to travel through the caravan park to access the land.
- 6.09 Following initial comments from KCC Highways received on 16 October 2019, which accepted that an adequate level of visibility could be achieved an 'Independent Stage 1 Road Safety Audit' was carried out and submitted. This audit was requested in initial highways comments as the proposal involves establishing a new access onto the classified road network.
- 6.10 As detailed in the report, the site was visited by the audit team on 06 November 2019 between 11:30am and 12:00 midday. "Traffic flows were observed to be relatively light but with a noticeable proportion of HGVs. One cyclist and two pedestrians were noted. The footway on the east side of Hampstead Lane was noted to be in a poor condition with numerous trip hazards. No collisions are recorded in the vicinity for the latest five-year period".
- 6.11 The road safety audit recommends that a swept path assessment be undertaken for the larger typical vehicle anticipated to regularly and frequently visit the site. The applicant's response to the Road Safety Audit includes a swept path assessment (Appendix B, inset 2 page 33) for a large car. This assessment has been considered by the highways authority and found to be acceptable.
- 6.12 The independent stage 1 road safety audit raised no issues with on street parking within the visibility splays for the new access. This audit has been considered and KCC Highways have confirmed that there is no justification for additional on street parking restrictions as part of a S278 agreement and Traffic Regulation Order.
- 6.13 Further additional comments from KCC Highways received on 16 December 2019 following the road safety audit indicate that that there is no reasonable justification for a S278 agreement with the applicant on account of the audit which raised no issues in respect of parking within visibility splays.
- 6.14 On the basis of the above the proposal is considered acceptable in relation to maintaining highway safety and the removal of existing on street car parking.

Loss of on street parking

- 6.15 Objections have been raised regarding the loss of on street parking in the area as a result of the development in relation to parking displacement.
- 6.16 Whilst evidence has been provided by the parish that there are times when there when a substantial number of vehicles are parked along the road, there were no vehicles parked in this location at the time of the officer site visit.

- 6.17 There is no evidence to suggest that parking displaced by the new access would create highway safety issues elsewhere with any other alternative parking in the area still covered by normal highway regulations. The loss of this on street parking is not grounds to refuse permission.

**Conclusion**

- 6.18 The proposal is acceptable in terms of maintaining this countryside setting. The proposal will provide improved access to this land and will maintain highway safety. As such the proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations. A recommendation of approval of the application is therefore made on this basis.

**PUBLIC SECTOR EQUALITY DUTY**

- 6.19 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

**7. RECOMMENDATION**

Grant Permission subject to the following conditions

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

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

Application for planning permission  
JNY10147-RPS-0100-001 Rev A Pr. General Arrangement Plan  
1196-0005-001 Site Location Plan  
RSA1

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

- 3) The development hereby approved shall not commence until, details of the means of vehicular access to the site, including the road width, kerb radii and details of finishing materials, have been submitted to and approved in writing by the local planning authority and the development shall proceed in accordance with the approved details.

Reason: No such details have been submitted.

- 4) The development hereby approved shall not commence until, full details of the method of disposal of surface water has been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted and maintained as such thereafter.

Reason: In order to prevent discharge of water onto the highway.

- 5) Where the surface finish of the access road is intended to remain in unbound materials, the first 5 m, as measured from the back of the highway, shall be treated with a surface dressing prior to first use to avoid the displacement of loose materials onto the highway.

Reason: In the interests of highway safety.

- 6) Any gates at the vehicular access to must be set back a minimum of 6 metres from the highway boundary;

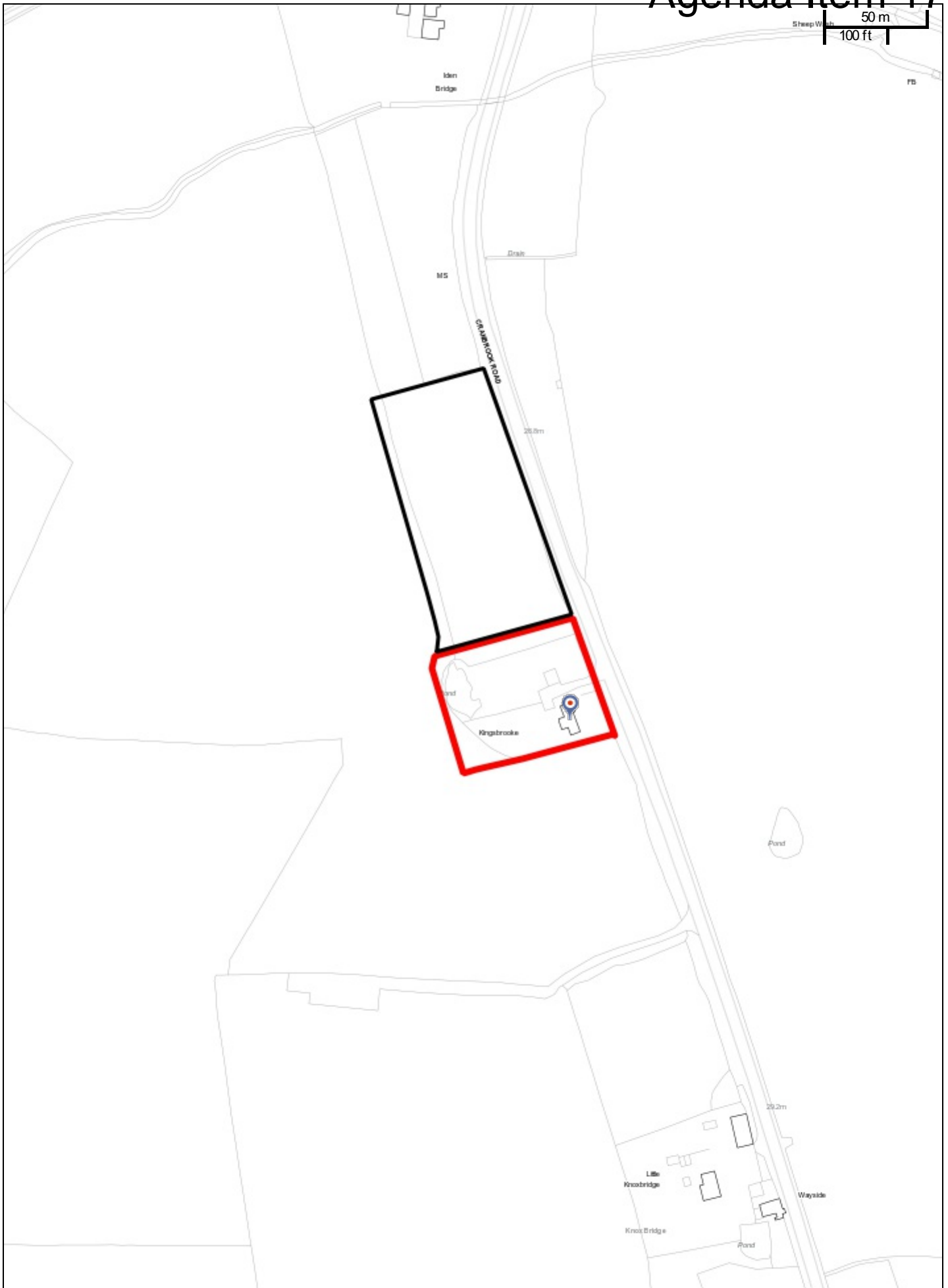
Reason: In the interests of highway safety.

- 7) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: In the interest of amenity.

Case officer: William Fletcher





19/503584/FULL Kingsbrooke

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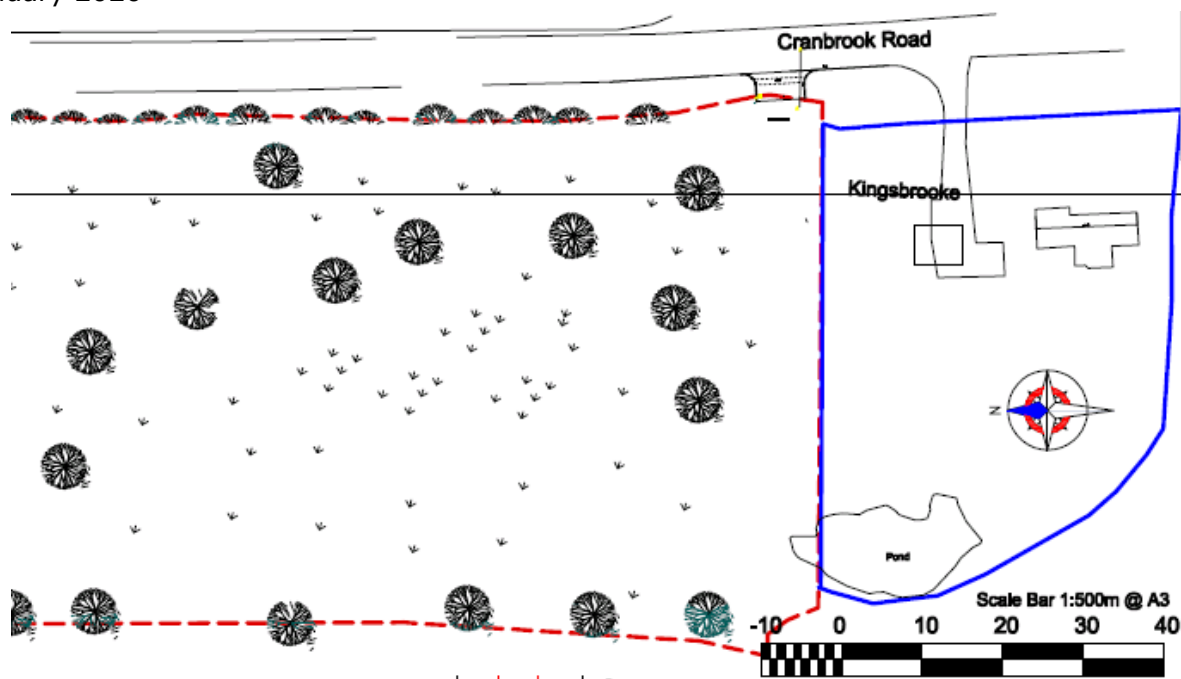
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<b>REFERENCE NO - 19/503584/FULL</b>		
<b>APPLICATION PROPOSAL</b> Creation of alternative access across existing drainage ditch with improved drainage.		
<b>ADDRESS</b> Kingsbrooke, Cranbrook Road, Staplehurst, Tonbridge, Kent, TN12 0EU		
<b>RECOMMENDATION</b> Grant planning permission subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal would not be visually harmful in this countryside location and would not have a detrimental impact upon highway safety.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Contrary to the views of the Parish Council that are set out in the consultation section.		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Mr Joe Spirito  <b>AGENT</b> Mr Anthony Turner
<b>TARGET DECISION DATE</b> 31/01/2020		<b>PUBLICITY EXPIRY DATE</b> 22/10/2019

Relevant Planning History

- 19/502753/LAWPRO - Lawful Development Certificate (Proposed) for creation of a new access across existing drainage ditch with improved surface drainage. – Refused on the 20 June 2019 as planning permission is required for the creation of an access onto a Classified Road and as the land is outside the residential curtilage of Kingsbrooke.

Extract from the site location plan submitted with 19/502753/LAWPRO



## **MAIN REPORT**

### **1 DESCRIPTION OF SITE**

- 1.01 The large timber clad detached property called Kingsbrooke is located on the southern side of Cranbrook Road.
- 1.02 The front boundary of the property is marked by fir trees and is set back from the carriageway behind a grass verge. The property is currently accessed by a single bridge over a drainage ditch running parallel to the road. The property benefits from a freestanding garage building located to the north of the main property. There is a drop in ground level towards the property from the road with a pond located to the west (rear) of the garage building. Footpath KM318 runs from Cranbrook Road 14 metres to the north of the garage, around the pond and off to the west of the site
- 1.03 For the purposes of the Maidstone Local Plan, the proposal site is within the designated countryside.

### **2. PROPOSAL**

- 2.01 The application seeks the creation of alternative access across existing drainage ditch with improved drainage also provided to the existing retained vehicle access.
- 2.02 The applicant has provided the following justification for the current application: *"The existing entrance to this dwelling area has a steep incline which reduces take off from a stationary position onto the highway it also has poor drainage which allows flood water to drain from public highway onto the domestic curtilage, creating a floodwater pond at the house entrance. A new access point placed approximately 15m to the north having a shallower gradient and flat raised take off point would give an improved sight line and better traction onto the class A highway whilst improved drainage would protect the dwelling area from flood water from the highway".*

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017:

#### **4. LOCAL REPRESENTATIONS**

##### **Local Residents:**

- 4.01 No representations were received from the seven neighbouring properties consulted.

#### **5. CONSULTATIONS**

##### Staplehurst Parish Council

- 5.01 Raise objection and recommend refusal for the following reasons:

- Unlike the drawings for 19/502753 the current drawings do not show residential and agricultural boundary parts of the site; the positions of other features and buildings were also different;
- The proposed access was onto agricultural land, separated by a ditch from the residential area;
- Councillors considered that vehicles would have to cross KM318 to reach the residential property from the proposed new access; (The footpath runs along the northern boundary of the application site and would be 5m to the north of the access)
- A second entrance would not improve surface water drainage at the current one a suitable drainage channel across the current entrance would be more appropriate;
- Two entrances so close together onto a busy A-road would increase the risk level.
- No evidence that the erection of the single storey lean-to extension to the rear elevation, the outbuilding in the north of the site, and the close boarded fence to the highway had been regularised.

##### KCC Highways

- 5.02 No objection subject to conditions requiring the following:-

- Gates to open away from the highway and to be set back a minimum of 6 metres from the edge of the carriageway.
- Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

##### KCC Flood and Water Management (Lead Local Flood Authority)

- 5.03 No objection but highlight that the new crossing and associated works may require land drainage consent.
- 5.04 The applicant is advised that any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse'. The applicant is advised to contact KCC Flood and Water Management prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function.
- 5.05 Any works that have the potential to affect the watercourse or ditch's ability to convey water will require formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact [flood@kent.gov.uk](mailto:flood@kent.gov.uk) for further information.

MBC Landscape

- 5.06 No objection to the loss of the individual trees in this location but would want to see a clear proposal on what trees would have to be removed because they would be destabilised or unlikely to survive, with suitable replacement planting tree proposals to mitigate their loss, in the interests of ongoing tree cover in the borough.

Southern Water

- 5.07 No objection.

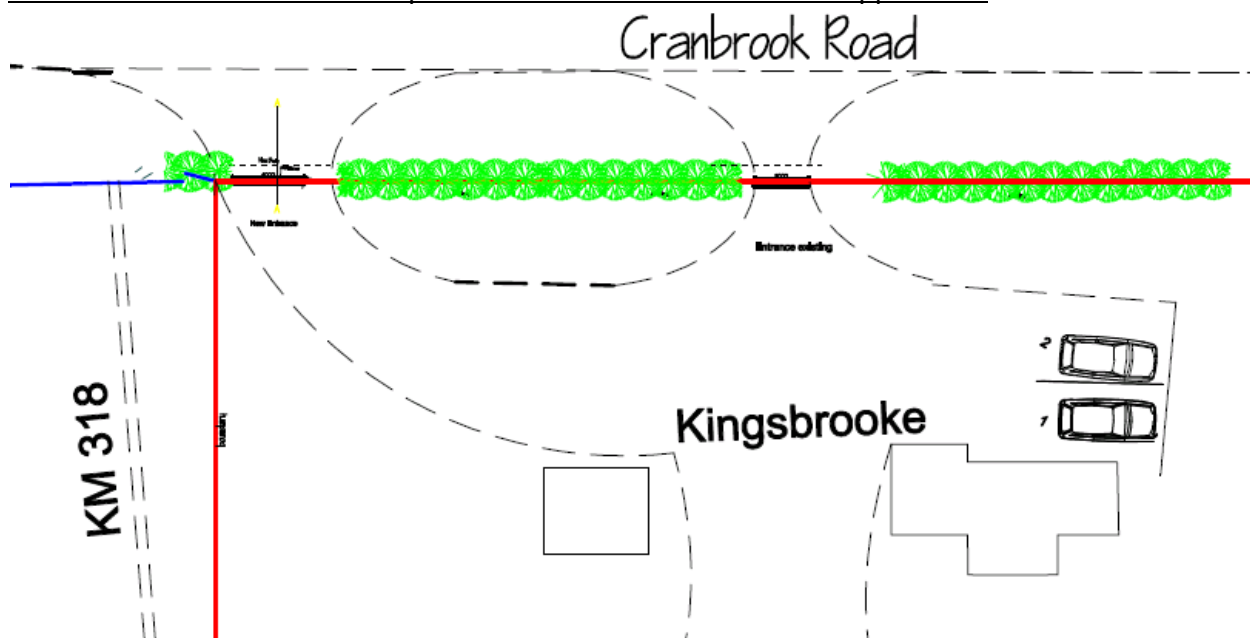
KCC Public Rights of Way officer

- 5.08 No objection with reference to standing advice.

**6. APPRAISAL**  
**Main Issues**

- 6.01 The key issues for consideration relate to:
- Design / impact on character of area
  - Highways issues
- 6.02 The current planning application follows on from a recently refused application for a Lawful Development Certificate (19/502753/LAWPRO). The Lawful Development Certificate was not issued for two reasons, the proposed access was on to a classified road and the access was not associated with a residential curtilage.
- 6.03 Whilst planning permission is still required for the proposed access as it is on to a classified road, it is highlighted that the access has now been relocated closer to the main property and garage. The proposed access is now also within the residential curtilage of the application property.

Extract from the site location plan submitted with the current application



### **Design / impact on character of area**

- 6.04 Policy SP17 states that 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.
- 6.05 In terms of design the creation of the access which plans and the submitted application form indicate would be 4m wide would not involve the removal of any trees or other important or valuable vegetation. It is considered that additional landscaping secured by a planning condition would mitigate any negative visual impact from the new access.
- 6.06 The submitted plans indicate that the proposed entrance gate would be of a similar design to the existing gate. A planning condition is recommended seeking precise details of the proposed new entrance gate.
- 6.07 In summary the proposed new access with a suitable landscape condition is acceptable in relation to visual impact. The development is acceptable in terms of its design and the proposal is acceptable in relation to detrimental impact upon the character and appearance of the countryside.

### **Highways issues**

- 6.08 Policy DM1 states that development must "Safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access;"
- 6.09 Policy DM30 continues "Proposals must not result in unacceptable traffic levels on nearby roads; unsympathetic change to the character of a rural lane which is of landscape, amenity, nature conservation, or historic or archaeological important or the erosion of roadside verges;"
- 6.10 The section of Cranbrook Road opposite the application site is a straight road approximately 220m to the north is the first bend with approximately 450m till a curve to the south this section has a speed limit of 50m and is not served by any street lighting. The access itself is set back 6.1m from the highway itself.
- 6.11 Comments have been received suggesting the two accesses to the property would be too close together, however when considering that both accesses serve the same property it is not considered that there would be any conflict between them. Traffic movements associated with the access points are also likely to be very low and as such it is not considered there would be any danger on account of the proximity of the two accesses.
- 6.12 Public Right of Way KM318 runs alongside the access 5m to the north at its closest points. The footpath is outside the residential curtilage of the dwelling and again traffic movements associated with the proposed access are likely to be low and as such it is not considered there would be any significant danger to users of the footpath as a result of the access.
- 6.13 In terms of justification for the access additional clarification was sought and the agent acting on behalf of the applicant replied with the following on 14/01/2020; "*The*

*existing entrance to this dwelling area has a steep incline which reduces take off from a stationary position onto the highway it also has poor drainage which allows flood water to drain from public highway onto the domestic curtilage, creating a floodwater pond at the house entrance. A new access point placed approximately 15m to the north having a shallower gradient and relatively flat raised take off point would give an improved elevated sight line and better traction onto the class A highway, whilst improved lateral camber on the bridge section enabling drainage to the ditch would protect the dwelling area from flood water from the highway: see Drawing No.1628/080f section A-A"*

- 6.14 It is not considered that the drainage works themselves are of such an extent that permission would be required. As detailed above the additional access above is not considered to have an overly adverse impact upon the character and appearance of the area and after assessing all material considerations the proposal is acceptable in relation to the impact on highways and will not result in harm to highway safety.

**Other matters**

- 6.15 The Parish Council have referred to the erection of the single storey lean-to extension to the rear elevation of the application property, the outbuilding in the north of the site, and the close boarded fence to the highway and whether these benefit from planning permission. This query has been passed to the Council's Planning Enforcement Team for separate investigation as this has no bearing on the consideration of the current planning application.

**Conclusion**

- 6.16 The proposal is acceptable in relation to the potential impact on Cranbrook Road and highway safety, the new access would not appear visually harmful within its countryside setting. The proposal is acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations. A recommendation of approval of the application is therefore made on this basis.

**7. RECOMMENDATION**

Grant Permission subject to the following conditions

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

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

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

Householder Application for planning permission  
1628/080 F Rev 2 Block Plan  
1628/080 F Rev 2 Section AA and Elevations  
1628/080 F Rev 2 Site Location Plan

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

- 3) Notwithstanding the details submitted, no gate shall be installed until full details of the height, design, positioning, materials and colour of the gate have been submitted to and approved in writing by, the local planning authority and the development shall thereafter be undertaken in accordance with the approved details. Gates must be set back a minimum of 6m from the edge of the carriageway;

Reason: In order to preserve the character and appearance of the countryside and in the interests of highway safety.

- 4) The access hereby permitted shall not be used until full details of the visibility splays which can be achieved and the gradient of the driveway hereby permitted have been submitted to and approved in writing by, the local planning authority. The development shall thereafter be undertaken in accordance with the approved details and the approved visibility splays shall be provided free from obstruction above 1 m above the level of the centre of the driveway measured at a point 2 m back from the edge of the carriageway prior to the first use of the access hereby permitted and subsequently maintained as such. The gradient of the access must be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter;

Reason: In the interests of highway safety.

- 5) Prior to the commencement of development 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 highlight the loss of any trees and to set out suitable replacements. The landscaping shall be provided in accordance with the agreed programme of implementation.

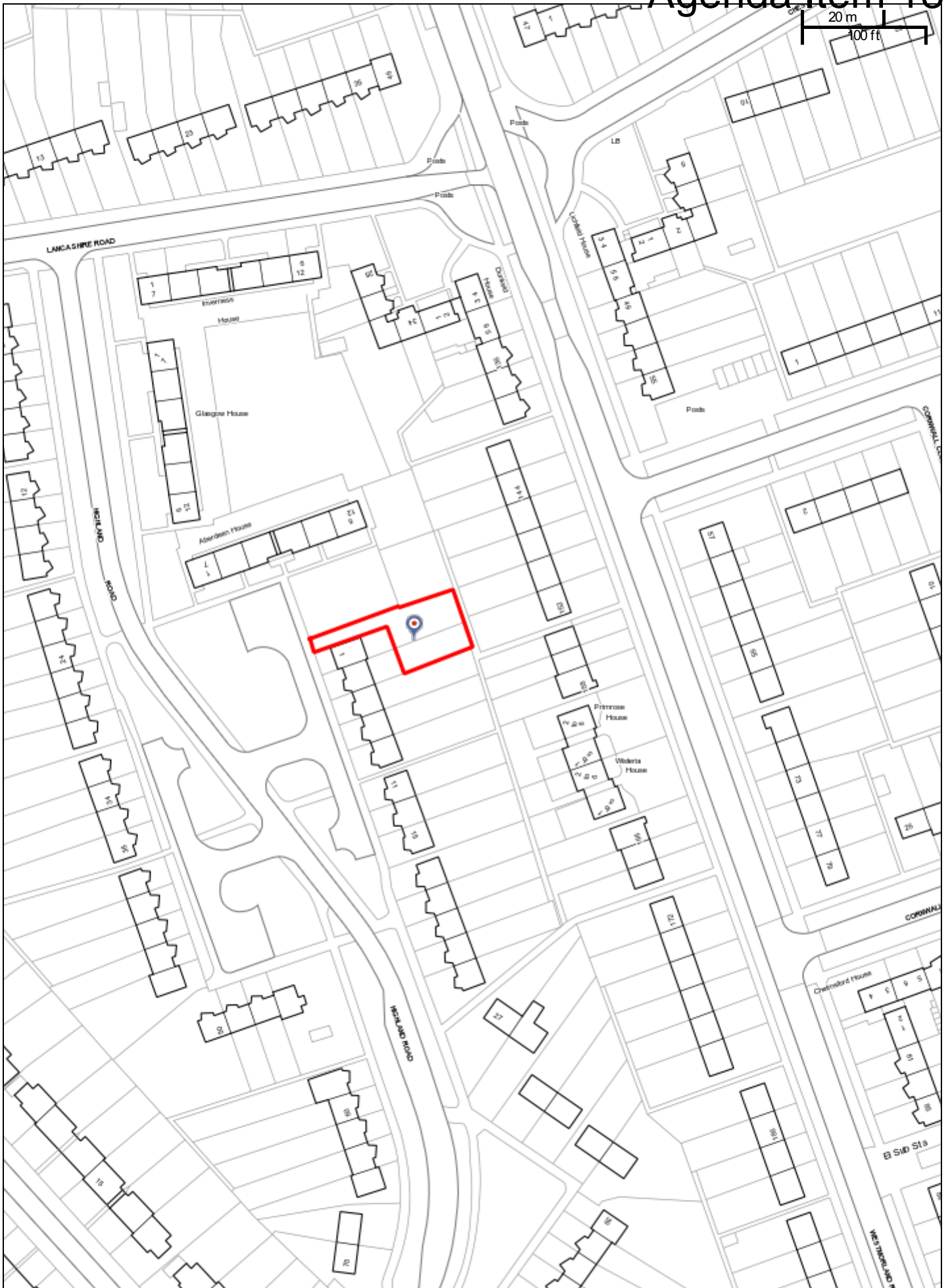
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 6) All existing trees and hedges on, and immediately adjoining, the site, shall be retained. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long term amenity value has been adversely affected shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions to mitigate the loss as agreed in writing with 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

Case officer: William Fletcher





19/505893/FULL Land To The Rear of 1-3 Highland Road



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<b>REFERENCE NO - 19/505893/FULL</b>		
<b>APPLICATION PROPOSAL</b> Erection of 2no. dwellings with associated access, parking and amenity space.		
<b>ADDRESS</b> Land to the rear of 1-3 Highland Road Maidstone Kent ME15 7QQ		
<b>RECOMMENDATION</b> Refuse planning permission for the reasons set out below.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The proposal, by reason of design, siting and location, would result in an incongruous and cramped form of development that is detrimental to the established pattern of local development and local character contrary to policies DM1 and DM11 of the Maidstone Local Plan and policies within the NPPF which seeks to secure appropriate and high quality design.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Cllrs McKay and Kimmance requested that the application be referred to the planning committee if officers were minded to recommend refusal. The issues raised included: overlooking/loss of privacy, layout and density of building, design, appearance and materials and Government policy.  Cllr McKay generally prefers to support self build developments and the design has some merits. In addition, there should be some clarification with regard to garden developments. Cllr Kimmance is of the opinion that the development proposal would not contravene planning policies.		
<b>WARD</b> Shepway South	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Mr Zoren & Paul Cheek <b>AGENT</b> ABA
<b>TARGET DECISION DATE</b> 31/01/20		<b>PUBLICITY EXPIRY DATE</b> 20/12/19

### **Relevant Planning History**

19/503165/LDCEX

Lawful Development Certificate (Existing) to establish lawfulness of created hard standing parking area.

Permitted 21.08.2019

19/505829/LDCEX

Lawful Development Certificate for rear parking to serve 1 & 3 Highland Road (existing). Pending Consideration

### **MAIN REPORT**

#### **1. DESCRIPTION OF SITE**

- 1.01 The proposal site forms part of the rear gardens of the properties at 1 and 3 Highland Road. Highland Road is characterised by uniform development of modest terraced homes in small terraces with good sized rear gardens linked to this family sized accommodation. The properties at 1 and 3 Highland Road and their layout is similar in character to the existing properties to the south numbered 5 to 23 Highland Road (odd no's) that all currently have rear gardens of circa 25 metres in depth.

- 1.02 The back gardens of residential properties in Westmorland Road are located to the east of the application site. To the north is a small allotment with existing properties at 1 and 3 Highland Road to the west and 5 Highland Road to the south.
- 1.03 The area has an open character on a leafy estate and in general terms the properties in the immediate vicinity have a good set back from the highway. For the purposes of the Development Plan, the proposal site is within the defined urban area.
- 1.04 There is currently an access to the rear of the application site along the northern side of No 1 Highland Road. A lawful development certificate establishing its existing use for off street parking was granted in August 2019, and a further lawful development certificate determining the use of the land for parking by the occupants of Nos 1 and 3 is currently being assessed.

## **2. PROPOSAL**

- 2.01 The proposal is for the erection of two new semi-detached dwellings with flat roofs situated towards the rear (eastern) boundary of Nos 1 and 3 Highland Road. The properties would be located to the rear of the amenity areas serving Nos 1 and 3, and would be two storeys in height with a contemporary design and a flat roof.
- 2.02 Both units would have an entrance off the shared driveway leading into an open plan ground floor with a WC off the entrance. At first floor level each unit would have one large bedroom and an ensuite bathroom.
- 2.03 Amenity space would be located to the south of the proposed units, and one car parking space for each unit would be allocated to the west of them.

## **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan 2017 SP1, DM1, DM3, DM11, DM12, DM23  
Supplementary Planning Documents:  
Maidstone Landscape Character Guidance 2012  
National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)

## **4. LOCAL REPRESENTATIONS**

### **Local Residents:**

- 4.01 1 letter of objection was received from local residents raising the following (summarised) issues
- Construction noise
  - Overshadowing
  - Potential overlooking
- 4.02 Members are advised that 9 letters of support have been received, with 5 unsigned and sent using the applicant's email address. A separate letter of support contained the phrase, 'we have carefully considered all of these residents concerns in our newly designed scheme...'.
- 4.03 The letters of support refer to the current impact of large conifers and antisocial behaviour on the area and that there is a demand for new housing . The letters of support state that any problems of overlooking and loss of privacy can be overcome through the use of evergreen screening.

## **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### KCC Highways

- 5.01 No objection. This development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current

consultation protocol arrangements. An informative was requested relating to highways owned land.

Environmental Services

- 5.02 No objection to the application subject to the restriction in the hours of building construction and an informative relating compliance with the Mid Kent Environmental Code of Development Practice.

Natural England

- 5.03 No comment

**6. APPRAISAL  
Main Issues**

- 6.01 The key issues for consideration relate to:

- Sustainability
- Character of the surrounding area
- Design/Layout and landscaping
- Residential amenity
- Highways
- Ecology

**Sustainability**

- 6.02 The Council's adopted Local Plan, (Policy SS1) states that the principle focus for new development in the borough will be the urban area, where the current proposal site is located.

- 6.03 The urban area is considered to be the most sustainable location in the borough where residents can make sustainable travel choices and access goods, services and facilities without the use of a private car. The proposal site consisting of private residential land within the built-up area is excluded from the NPPF definition of previously developed or 'Brownfield' land.

- 6.04 This focus on new development in the urban area is dependent on a proposal also meeting other policy requirements such as maintaining or enhancing local character and these matters are considered below. In relation to the need for the new dwelling, the Council has a good track record on housing delivery (as evidenced by the Housing Delivery Test) and has a five year housing land supply in place and as a result there is no need for the proposed two new units

**Character of the surrounding area**

- 6.05 Local Plan policy DM11 states that development of domestic garden land will be permitted if a proposal meets a number of criteria. These criteria include where the higher density resulting from the development would not result in significant harm to the character and appearance of the area.

- 6.06 The character of the local character and an existing positive feature is the defined layout of development with properties in small terraces with a fairly rigid and uniform siting. In contrast, the proposed semi-detached dwellings would introduce an incongruous feature standing alone in the rear garden area of the two existing terraced properties at 1 and 3 Highland Road.

- 6.07 I consider that this backland proposal would not reflect and would be damaging to the existing established pattern and grain of development in the area that forms local character.

- 6.08 Whilst the presence of the existing tree to the north of 1 Highland Road is noted, the adjacent open space would allow public views of the proposed dwelling. In addition, there would be views from many adjacent properties and their rear gardens. The

introduction of these dwellings in the rear garden area of the properties on Highland Road would appear as an incongruous feature that conflicts with the established pattern of development and local character.

- 6.09 As such this proposal, by virtue of its siting, scale and the intensification of built development in this backland location, would result in inappropriate development of residential garden land, causing adverse harm to the character of the area and would therefore be contrary to DM1, DM11 and policies of the NPPF which seek to secure appropriate and high quality design.

**Design/Layout and landscaping**

- 6.10 Policy DM1 encourages development which responds positively to and where possible enhances, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage incorporating a high quality modern design approach and making use of vernacular materials where appropriate.
- 6.11 The development proposal would comprise two, one bedroom dwellings, largely open plan, constructed in brick with flat roofs. They would be sited to the rear of 1 and 3 Highland Road and would be accessed via a driveway adjacent to No 1.
- 6.12 The existing local character is formed by the uniform layout of buildings, the setback from the road, the separating rear gardens and the general open character with the properties themselves of a simple building design. Whilst there is no objection to a contemporary design approach, the design of the proposed properties appears bland, with little to provide relief from the expanses of the walls on the flank and rear elevations and the high level windows provided on main building elevations do not provide much in the way of relief to the walls of the buildings.
- 6.13 I acknowledge that the bulk and massing of the development proposal has been reduced following the withdrawal of the previous application (referenced above) but the siting and location of the development as a whole is considered inappropriate when assessing it in conjunction with policies DM11 and DM1. The development reducing the existing garden depth from 25 metres to 7.5 metres and with the new houses in close proximity to the rear boundary would provide a cramped form of development.
- 6.14 The intention to incorporate planting in order to reduce the overall impact of the proposal would not be considered sufficient to overcome the concerns raised as oversized planting could result in an adverse impact on neighbouring amenity.

**Residential amenity**

- 6.15 Policy DM1 encourages development which respects 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, or is exposed to, 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.
- 6.16 The previous development proposal in this location would have resulted in potential overlooking, loss of privacy and loss of outlook to the rear elevation and rear private amenity space of 150 Westmoreland Road (to the east); the rear elevation and garden of 1 Highland Road (to the west) and the private rear gardens of properties to the south of the proposed dwelling. The previous development proposal in this location would have resulted in potential overlooking, loss of privacy and loss of outlook to the rear elevation and rear private amenity space of 150 Westmoreland Road (to the east); the rear elevation and garden of 1 Highland Road (to the west) and the private rear gardens of properties to the south of the proposed dwelling.

- 6.17 The current application has now overcome the over-looking issues by reducing the standard of the accommodation for future occupants with high level fenestration to the bedroom windows as well as the western facing bathroom window.
- 6.18 The fenestration on the ground floor would not result in overlooking either by the neighbours or the future occupiers due to the incorporation of boundary treatment (marked as a 5 metre high tree screen to the east and west boundaries). The fenestration on the northern elevation would be a sufficient distance for any amenity issues to be minimised with regard to the neighbours or future occupiers.
- 6.19 In terms of overlooking and over-shadowing issues, the proposed dwellings would be a sufficient distance to alleviate any potential impact on the neighbouring properties.

### **Highways**

- 6.20 Local Plan policy DM11 states that development of domestic garden land will be permitted if a proposal meets a number of criteria.
- 6.21 These criteria include a requirement that there should also be an appropriate access to the highway. The proposed access is acceptable in terms of its width, and there is sufficient parking and bin storage for the units. If otherwise considered acceptable electric vehicle charging points would be requested by way of a planning condition. For these reasons, the details supplied would be considered acceptable in relation to highways impact.

### **Biodiversity**

- 6.22 The land is currently disused and has had rubbish and debris on it which has been tidied recently. The land is unlikely to have any biodiversity value as it stands. In the event that other issues were resolved a condition would be recommended to seek ecological enhancements in the site and landscaping with use of native species.

### **CIL**

- 6.23 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.24 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## **7. CONCLUSION**

- 7.01 The proposed development would result in an inappropriate form of development that would have an unacceptable impact on the character and appearance of the more uniform development that makes up the pattern of the surrounding area, contrary to Local Plan policies.

## **8. RECOMMENDATION**

REFUSE planning permission for the following reasons:

The proposal, by reason of design, siting and location, would result in an incongruous and cramped form of development that is detrimental to the established pattern of local development and local character contrary to policies

DM1 and DM11 of the Maidstone Local Plan and policies within the NPPF which seeks to secure appropriate and high quality design.

Informatives

- 1) The applicant is advised that as of 1st October 2018, the Maidstone Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.maidstone.gov.uk/CIL](http://www.maidstone.gov.uk/CIL)
- 2) The plans taken into consideration in reaching the decision to refuse planning permission are:

27 Nov 2019	Site Location and Block Plan
27 Nov 2019	2613/PL/200 B      Layout and Ground Floor
27 Nov 2019	2613/PL/201 B      Proposed Elevations and Floor Plans
27 Nov 2019	Planning Statement Appendices
27 Nov 2019	Planning Statement Part 1
27 Nov 2019	Planning Statement Part 2

Case Officer: Jocelyn Miller

## Agenda Item 19





<b>REFERENCE NO -</b> 19/504225/FULL		
<b>APPLICATION PROPOSAL</b> Erection of a replacement barn (revised scheme to 19/502397/FULL).		
<b>ADDRESS</b> Land to the south of The Gables, Marden Road, Staplehurst, Kent, TN12 0PE		
<b>RECOMMENDATION</b> Grant planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> The principle of the replacement barn is acceptable. Additionally it is acceptable in terms of design and appearance, and there would be no unacceptable impact on the character, appearance or visual amenity of the locality.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> <b>Call in by Cllr Perry for the following reasons:</b> <ul style="list-style-type: none"> <li>• The development would not be in keeping with Policy PW2 of the Staplehurst neighbourhood plan</li> <li>• Development would be inconsistent with provisions of policies SP5 and SP17</li> <li>• development would harm the appearance and character of the countryside</li> </ul>		
<b>WARD</b> Staplehurst Ward	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Mr P.R Garrod  <b>AGENT</b> D C Hudson & Partner
<b>TARGET DECISION DATE</b> 27/01/2020 – (EOT)		<b>PUBLICITY EXPIRY DATE</b> 10/10/2019

## **MAIN REPORT**

### **1. Background**

- 1.01 This application was deferred at the Committee meeting on the 24 October 2019. This report should be read in association with the original committee report that is included as an appendix. As recorded in the committee minutes the decision was deferred to negotiate amendments to the scheme to mitigate its impacts on the surrounding area. These were to include:
- Seek further evidence to justify the need for the replacement barn.
  - Seek to negotiate (a) a landscaping scheme, including tree planting, to screen the replacement structure particularly in terms of views from the east and (b) the attachment of bird or bat boxes to the replacement structure.

### **2. CONSULTATIONS**

- 2.01 Following the decision by members for deferral of this application on the 24<sup>th</sup> October 2019, no additional consultations have taken place.

### **3. APPRAISAL**

- 3.01 This appraisal section is structured using the 2 points that were outlined in the committee minutes for the meeting on the 24 October 2019.
- 3.02 • Seek further evidence to justify the need for the replacement barn.

- 3.03 Additional information received from the applicant indicates that they wish to store domestic equipment within the barn, and it will not be within an agricultural use. As such some previous policy considerations are no longer applicable to this application, specifically policies DM36 (New agricultural buildings and structures) and DM37 (Expansion of existing businesses in rural areas).
- 3.04 As such the application must primarily be assessed against SP17 (Countryside) which brings the assessment back to DM30 (Design principles in the countryside). Paragraph iv. of DM30 states that existing buildings or structure suitable for conversion or re-use should be considered first to provide the required facilities and before new buildings are considered.
- 3.05 Whilst the existing structure is not capable of being used presently, and would not currently be fit for the intended purpose, it could be repaired and brought back into use relatively easily. As such the presence of an existing structure on site weighs heavily when considering the proposed structure is not significantly larger than the existing.
- 3.06 The proposal will remove a semi derelict building with a slightly larger purpose built structure that will be in keeping with the site and will not have any detrimental impact.
- Seek to negotiate (a) a landscaping scheme, including tree planting, to screen the replacement structure particularly in terms of views from the east and (b) the attachment of bird or bat boxes to the replacement structure.
- 3.07 Should permission be forthcoming this point can be addressed suitable conditions.

#### **4. CONCLUSION**

- 4.01 Following the deferral, the officer recommendation remains unchanged as below.
- 4.02 The principle of the replacement barn is acceptable. Additionally it is acceptable in terms of design and appearance, and there would be no unacceptable impact on the character, appearance or visual amenity of the locality.
- 4.03 The proposal is acceptable in relation to parking and highway safety, and the proposal is in line with the requirements of policy SP17, DM1 and DM30 of the adopted Maidstone Borough Local Plan (2017). I am satisfied that the proposed replacement barn is acceptable with respect to local and national planning policy and that no other material considerations would indicate a refusal of planning permission. In the circumstances, I recommend that this application is approved subject to conditions.

#### **5. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission;  
Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawing numbers;

Application for Planning Permission

01 Rev 01     Site Location Plan  
02 Rev 03     Existing and Proposed Site Layout  
05 Rev 02     Proposed Plans  
06 Rev 03     Proposed Elevations  
07 Rev 02     Proposed Garage  
Extended Phase 1 Habitat Survey Report  
Flood Map for Planning  
Landscape Planting Details  
Planning Statement

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

- 3)     The materials to be used in the development hereby approved shall be as indicated on the submitted details

Reason: To ensure a satisfactory appearance to the development

- 4)     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 landscape scheme shall specifically address the need to provide screening to the north and south of the structure and shall be comprised of suitable native species.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

- 5)     The structure hereby approved shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through either integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks, or through provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles and hedgerow corridors. 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.

- 6)     Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: In the interest of amenity and wildlife protection.

Case Officer: William Fletcher

<b>REFERENCE NO -</b> 19/504225/FULL		
<b>APPLICATION PROPOSAL</b> Erection of a replacement barn (revised scheme to 19/502397/FULL).		
<b>ADDRESS</b> <b>Land To The South Of The Gables, Marden Road, Staplehurst, Kent, TN12 0PE</b>		
<b>RECOMMENDATION</b> Grant planning permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>  The principle of the replacement barn is acceptable. Additionally it is acceptable in terms of design and appearance, and there would be no unacceptable impact on the character, appearance or visual amenity of the locality.		
<b>REASON FOR REFERRAL TO COMMITTEE</b>  <ul style="list-style-type: none"> <li>• The development would not be in keeping with Policy PW2 of the Staplehurst neighbourhood plan</li> <li>• Development would be inconsistent with provisions of policies SP5 and SP17</li> <li>• development would harm the appearance and character of the countryside</li> </ul>		
<b>WARD</b> Staplehurst Ward	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Mr P.R Garrod  <b>AGENT</b> D C Hudson & Partner
<b>TARGET DECISION DATE</b> 22/10/2019		<b>PUBLICITY EXPIRY DATE</b> 10/10/2019

### Relevant Planning History

19/502397/FULL - Erection of a replacement barn. - WITHDRAWN

18/502553/FULL - Demolition of existing buildings and erection of two detached dwellings and replacement storage building (re-submission of 17/505937/FULL). – REFUSED

17/505937/FULL - Demolition of existing buildings and erection of two detached dwellings and replacement storage building. – REFUSED

15/509275/OUT - Outline application with access matters reserved for proposed residential development following demolition of existing buildings with replacement storage building. – REFUSED, Dismissed at appeal.

### MAIN REPORT

#### **1. DESCRIPTION OF SITE**

- 1.01 The site is accessed from Marden Road and is located to the rear of the existing residential property called The Gables. The main parcel of land is set back from the

road by approximately 73m and is accessed by a narrow track that runs parallel to the curtilage of The Gables.

- 1.02 The site is currently occupied by a collection of pole barns and an agricultural storage building. In the centre of the site is an area of concrete hardstanding that covers the width of the site. These structures and area of hardstanding are set within mown grassland.
- 1.03 To the east of the site is a crane storage depot and to the south and west, open countryside. Immediately to the south of the application site is an area of grassland under the same ownership as the application site, which appears to have been regularly mown.
- 1.04 The site is located within the open countryside, although no other designations apply. It is not located within a flood zone and there are no listed buildings in the immediate vicinity.

## **2. PROPOSAL**

- 2.01 The application seeks the erection of a replacement barn
- 2.02 In terms of materials, plans indicate the structure would use 'Olive Green profiled roof and wall cladding'. The structure would have a length of 15.7m with a depth of 9.1m, with a maximum height of 3.8m and a minimum height of 3.5m with its pitched roof. Unlike the existing barn, the proposed has four doors on its front elevation to secure the barn, each door has a height and width of 3.2m

## **3. POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF):

Section 12 – Achieving well-designed places

Maidstone Borough Local Plan 2017:

SP17 – Countryside

DM1 – Principles of good design

DM30 – Design principles in the countryside

DM36 – New agricultural buildings and structures

DM37 – Expansion of existing businesses in rural areas

Supplementary Planning Documents:

## **4. LOCAL REPRESENTATIONS**

### **Local Residents:**

- 4.01 1 representation received from local residents raising the following (summarised) issues
  - The existing structure is sufficient to securely store equipment.
  - No agricultural activity is taking place on site.
  - No policy justification for installing any additional/new buildings for storage on site.
  - Applications seeking new storage buildings have been refused in the past and dismissed at appeal.
  - That the development is seeking to establish a new dwelling on the property.

## **5. CONSULTATIONS**

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

Staplehurst Parish Council

5.01 Councillors recommend that the application is REFUSED and requested referral to MBC Planning Committee were the Planning Officer minded to approve the application. Councillors stated that their reasons for objecting to the previous application applied equally to the new one and that the need for the proposed development had not been demonstrated.

5.02 Material reasons listed in the past are as follows:

- The development would not be in keeping with Policy PW2 of the Staplehurst neighbourhood plan
- Development would be inconsistent with provisions of policies SP5 and SP17
- development would harm the appearance and character of the countryside

5.03 Cllr John Perry

I am writing in respect of Planning Applications 19/504225/FUL (Land South of the Gables Marden Road Staplehurst) and 19/504276/OUT (Adjacent to West View Maidstone Road Staplehurst). If Officers were minded to recommend acceptance I would like these applications called in and heard by the Planning Committee for a final decision.

**6. APPRAISAL  
Main Issues**

6.01 The key issues for consideration relate to:

- Principle of development
- Design / impact on character of area
- Residential amenity
- Highways issues

**Principle of development**

6.02 Policy SP17 states that 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.

6.03 Policy DM36 of the local plan allows for new agricultural buildings and structures on the condition that new structures are necessary for the purposes of agriculture, have no adverse impact on the amenity of existing residents, and that any new structures are able to mitigate the visual impact of the development.

6.04 The proposal seeks permission to replace an existing structure on the same footprint. The presence of the existing barn carries significant weight in consideration of the current proposal in terms of the extent of increased impact (rather than assessing an entirely new impact). The proposed barn would be 0.2m taller and be 1.8m larger in terms of its depth, the width remains the same.

6.05 In terms of the evidence submitted with the application demonstrating an agricultural use, the replacement barn would simply be for the purposes of securely storing equipment.

- 6.06 Whilst some principles of DM36 apply when determining this application, given that the proposal is for a replacement rather than an entirely new structure, policy DM30 is considered to be more appropriate to assess the application.
- 6.07 The principle of the replacement barn is sound. Whether the proposal is acceptable will therefore fall upon an assessment of its increase impact in terms of visual and amenity impact.

**Design/impact on character of area**

- 6.08 Paragraph ii. of Local Plan policy DM1 states that development must "Respond positively to, and where possible enhance, the local, natural character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage". Development will be expected to incorporate a high quality, modern design approach and to make use of vernacular materials where appropriate.
- 6.09 Paragraph v. of local plan policy DM1 continues that development must "Respect the topography and respond to the location of the site and sensitively incorporate natural features such as trees, hedges and ponds worth of retention within the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area"
- 6.10 Paragraph vi. of DM30 states that where built development is proposed, there would be no existing building or structure suitable for conversion or re-use to provide the required facilities. Any new buildings should, where practicable, be located adjacent to existing buildings or be unobtrusively located and well screened by existing or proposed vegetation which reflect the landscape character of the area;
- 6.11 The existing barn has a length 15.8m, a depth of 7.3m, a maximum height of 3.6m, and a minimum height of 2.6m. Unlike the proposed it is open fronted.
- 6.12 The replacement barn would be located in the same location as the existing barn, as stated above the proposed barn length of 15.8m with a depth of 9.1m, with a maximum height of 3.8m and a minimum height of 3.5m with its pitched roof.
- 6.13 As such the existing barn has a footprint of 115m<sup>2</sup> and the proposed a footprint of 143m<sup>2</sup>. This represents a 28m<sup>2</sup> increase in floorspace, and a 20cm increase in overall height. The additional built form would project towards existing vegetation on site, not further into the open application site. It is considered that the materials used are acceptable in this location and are not too dissimilar to the existing barn.
- 6.14 On balance the structure, built in the same location as the existing barn, with a 28m<sup>2</sup> increase in footprint, a 20cm increase in height and the installation of secure doors would not or have a significantly additional harmful impact upon the character and appearance of the application site or the surrounding area. As such, there are insufficient grounds to recommend its refusal

**Residential Amenity**

- 6.15 The development is not considered to detrimentally impact upon the amenity of neighbouring properties any more so than the existing barn would. The closest neighbouring property is over 70m away to the north.
- 6.16 When considering the rural and unlit nature of the road, it is considered that a condition requesting details of any external lighting would be appropriate in this location in order to prevent the installation of any inappropriate external lighting that could have a detrimental impact upon wildlife in the area as well as neighbouring amenity.

**Highway safety, parking and servicing**

- 6.17 The existing barn has five 'ports' that could be used for parking vehicles, the proposed has four. Given this and the minimal increase in size, the proposed barn would not be used any more intensively than the existing in terms of traffic movements.

**Neighbouring Representations**

- 6.18 Concerns have been raised regarding the establishment of a new dwelling on site and that previous applications seeking similar works have been refused in the past and dismissed at appeal.
- 6.19 Concerns about future intention are not a material planning consideration, nor would a condition preventing this be appropriate, should permission be forthcoming. Consent is sought only for a replacement barn to be used for storage purposes. Planning permission would be required for any further works, or change of use and this would be assessed against the relevant policies.
- 6.20 Any previous application for a new dwelling is not a material planning consideration that has any bearing on this proposal.

**7. CONCLUSION**

- 7.01 The principle of the replacement barn is acceptable. Additionally it is acceptable in terms of design and appearance, and there would be no unacceptable impact on the character, appearance or visual amenity of the locality.
- 7.02 The proposal is acceptable in relation to parking and highway safety, and the proposal is in line with the requirements of policy SP17, DM1 and DM30 of the adopted Maidstone Borough Local Plan (2017). I am satisfied that the proposed replacement barn is acceptable with respect to local and national planning policy and that no other material considerations would indicate a refusal of planning permission. In the circumstances, I recommend that this application is approved subject to conditions.

**8. RECOMMENDATION**

Grant Permission subject to the following conditions

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

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



- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/drawing numbers;

Application for Planning Permission

2179/03 Rev B      Site Location and Block Plans

2179/05 Rev B      Existing and Proposed Plans and Elevations

Cover Letter

Design and Access Statement

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

- 3) The materials to be used in the development hereby approved shall be as indicated on the submitted details

Reason: To ensure a satisfactory appearance to the development

- 4) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter;

Reason: In the interest of amenity and wildlife protection.

**THE MAIDSTONE BOROUGH COUNCIL**  
**PLANNING COMMITTEE – 23<sup>rd</sup> January 2020**

**APPEAL DECISIONS:**

**1. 19/500159/FULL**

Creation of a single off-road parking space, by enlarging existing opening within stone wall and relocation of existing stone wall and railings.

**APPEAL:** DISMISSED

Jessamine Cottage  
37 South Street  
Barming  
Maidstone  
Kent  
ME16 9EX

(Delegated)

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**2. 19/502322/FULL**

Conversion and extension of existing garage including creation of first floor and insertion of dormer windows to form a new dwelling.  
(Resubmission of 18/506446/FULL)

**APPEAL:** DISMISSED

75 Poplar Grove  
Maidstone  
Kent  
ME16 0AN

(Delegated)

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